

# IMPORTANT - - Read This Developer Prepared Report Before Buying

This Report Is Not a Commission Approval or Disapproval of This Condominium Project

## THIRD AMENDED DEVELOPER'S PUBLIC REPORT FOR A CONDOMINIUM

CONDOMINIUM PROJECT NAME	AWAKEA AT MEHANA
Project Address	Wakea Street, Kakala Street, Manawai Street Kapolei, Hawaii 96707
Registration Number	7326
Effective Date of Report	<b>June 22, 2015</b>
Developer(s)	D.R. Horton - Schuler Homes, LLC, a Delaware limited liability company, dba D.R. Horton-Schuler Division

### Preparation of this Report

The Developer prepared this report to disclose relevant information, including "material facts", that are reasonably known to the Developer about the condominium project covered by this report. This report has been prepared pursuant to the Condominium Property Act, Chapter 514B, Hawaii Revised Statutes, as amended from time to time. The law defines "material facts" to mean "any fact, defect, or condition, past or present that to a reasonable person, would be expected to measurably affect the value of the project, unit, or property being offered or proposed to be offered for sale."

This report has not been prepared or issued by the Real Estate Commission or any other governmental agency. The issuance by the Commission of an effective date for this Developer's Public Report (1) does not mean that the Commission approves or disapproves of the project; (2) does not mean that the Commission thinks that either all material facts or all pertinent changes, or both, about the project have been fully or adequately disclosed; and (3) is not the Commission's judgment of the value or merits of the project.

This report may be used by the Developer for promotional purposes only if it is used in its entirety. No person shall advertise or represent that the Commission has approved or recommended the project, this report or any of the documents submitted with Developer's application for registration of this project.

This report will be amended if, after the effective date of this report, any changes, either material or pertinent changes, or both, occur regarding the information contained in or omitted from this report. In that case, the Developer is required to submit immediately to the Commission an amendment to this report or an amended Developer's Public Report, clearly reflecting the changes, including any omitted material facts, together with such supporting information as may be required by the Commission. In addition, the Developer may choose at any time to change or update the information in this report. Annually, at least thirty days prior to the anniversary date of the Effective Date of this report, the Developer shall file an annual report to update the material contained in this report. If there are no changes, the Developer is required to state that there are no changes. The Developer's obligation to amend this report or to file annual reports ends when the initial sales of all units in the project have been completed.

Purchasers are encouraged to read this report carefully and to seek professional advice before signing a sales contract for the purchase of a unit in the project.

Signing a sales contract may legally bind a purchaser to purchase a unit in the project, though a purchaser may have rights to cancel or rescind a sales contract under particular circumstances that may arise.

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*This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at 586-2643 to submit your request.*

### Special Attention - - Significant Matters

[Use this page for special or significant matters which should be brought to the purchaser's attention. At minimum "Subject Headings" and page numbers where the subject is explained more may be used.]

**The developer's inclusion of a disclosure or an explanation of any or all of the following applicable significant matters in this part of the developer's public report shall not be construed to constitute the Commission's:**

- Approval or disapproval of the project;
- Representation that the developer has fully or adequately disclosed either all material facts or all pertinent changes, or both, concerning the project;
- Representation that the developer's disclosures of other material facts elsewhere in this report is less important; or
- Judgment of the value or merits of the project.

**The commission reserves the right to request that the developer include these special and significant matters elsewhere in the developer's public report.**

This Third Amended Developer's Public Report SUPERSEDES the prior Second Amended Developer's Public Report with an effective date of January 28, 2015.

A. Pursuant to the rights reserved to the Developer under the Amended and Restated Declaration of Condominium Property Regime of Awakea at Mehana, the Developer has:

1. Filed an Amendment to Amended and Restated Declaration of Condominium Property Regime of Awakea at Mehana in the Office of the Assistant Registrar of the Land Court of the State of Hawaii ("Land Court") as Document No. T-9109186.
2. Filed an Amendment to Bylaws of the Association of Unit Owners of Awakea at Mehana in the Land Court as Document No. T-9109187.
3. Filed a Supplemental Declaration of Condominium Property Regime of Awakea at Mehana Evidencing Completion of Increment 12/Building 13 in the Land Court as Document No. T-9114160.
4. Filed an Amendment to Amended and Restated Declaration of Condominium Property Regime of Awakea at Mehana (Increment 15, Building 8, Increment 16, Building 14) in the Land Court as Document No. T-9160374.
5. Filed a Supplemental Declaration of Condominium Property Regime of Awakea at Mehana Evidencing Completion of Increments 11, 13 and 14/Buildings 9, 15 and 16 in the Land Court as Document No. T-9191138.
6. Filed an Amendment to Amended and Restated Declaration of Condominium Property Regime of Awakea at Mehana in the Land Court as Document No. T-9258358.
7. Developer has elected to install submeters for water and sewer service to Units. The Association will bill water and sewer service to Owners, together will a submeter servicing fee.
8. Developer has corrected a typographical error in the recordation information for the Bylaws.
9. Developer has entered into an Exclusive Co-Listing Agreement, dated September 16, 2013, as amend, with Sofos Realty Corp, as to Commercial Units 801-805, inclusive, and 903-905, inclusive (collectively, the "Commercial Units").
10. Updated the Budget for the Community.

## SPECIAL ATTENTION

Buyers SHOULD read these documents.

In addition, Buyers should be aware that:

a. The Developer contemplates the creation of a 140.460 acres planned community (Mehana at Kapolei) covered by a Master Declaration of which this condominium community is a part. The Mehana at Kapolei community will be developed in at least 8 phases, that may include several residential and mixed use communities, condominiums, commercial, and other related facilities.

Each community, including Awakea at Mehana, will be constructed in one or more increments.

b. Pursuant to the Unilateral Agreement and Declaration for Conditional Zoning attached hereto as Exhibit V, thirty percent (30%) of the total residential units of Mehana at Kapolei will be available to qualified buyers as defined in the aforementioned agreement. Prospective Purchasers should be aware that units located in Buildings IA and III, inclusive within the Awakea at Mehana Community, have been preliminarily designated for sale by chronological system to qualified affordable home purchasers.

Each of the units will be marketed to eligible purchasers earning up to 120% of the City and County of Honolulu's ("County") median household income and will be sold subject to a buy-back restriction benefiting the County should Purchaser sell or transfer ownership of the unit during the effective period of the buy-back restriction. The buy-back restriction will be (i) eight (8) years for buyers earning up to eighty percent (80%) of the median household income, and (ii) four (4) years for buyers earning between eighty one percent (81%) and one-hundred twenty percent (120%) of the median household income ("Category 2 Buyers"), provided Developer reserves the right to offer affordable designated units at Awakea to only Category 2 Buyers. Prospective Purchasers must complete an Affordable Home Housing Application and other documents that will be reviewed by the County in determining the Prospective Purchaser's eligibility to purchase a designated affordable home.

c. The City and County of Honolulu Real Property Assessment Division has recently changed the manner in which it assesses Live Work Units. Live Work Units may be classified as "commercial" for real property tax purposes, even when used solely for residential purposes and notwithstanding the fact that only the flex space portion of the Live Work Unit is used for commercial purposes. The 2014-2015 tax rate for property classified as "commercial" is \$12.40 per \$1,000 of net taxable value of the Unit. If the Live Work Unit is owner occupied and being used solely for residential purposes, an owner may seek to obtain the "residential" tax classification by filing a home exemption and indicating that the property will not be used as a rental or for business purposes. If the Live Work Unit is not owner occupied but is used solely for residential purposes, Owners may file with the City and County of Honolulu Real Property Assessment Division a "Declaration Regarding Condominium Use" to seek to have the property classified as residential. "Commercial Units" may be assessed at the "commercial" tax rate. For further information and to confirm your actual rate, you may contact the Real Property Tax Office at (808) 768-3799.

B. This resulted in changes to the following pages and exhibits to the Second Amended Developer's Public Report:

1. Section 1.12 on page 5 of the Second Amended Developer's Public Report was updated to reflect the revised Preliminary Report.

2. Section 2.2 on page 9 of the Second Amended Developer's Public Report has been revised to reflect the addition of Sofos Realty Corporation as the co-real estate broker as to the Commercial Units.

3. Section 3.1 on page 10 of the Second Amended Developer's Public Report was updated to include the recordation information for the above instruments.

4. Sections 4.3 and 4.4 on page 12 of the Second Amended Developer's Public Report has been revised to reflect the submetering of utilities.
5. Exhibit C has been revised to reflect the assignment of certain Developer Reserved Stalls to Commercial Units.
6. Exhibit L (Section 1.12 – Encumbrances Against Title) has been revised to include the recorded items above.
7. Exhibit P has been revised to include the updated Budget for the Community.

## TABLE OF CONTENTS

	<u>Page</u>
Preparation of this Report.....	1
General Information On Condominiums.....	2
Operation of the Condominium Project.....	2
<b>1. THE CONDOMINIUM PROJECT.....</b>	<b>3</b>
1.1 The Underlying Land.....	3
1.2 Buildings and Other Improvements.....	3
1.3 Unit Types and Sizes of Units.....	3
1.4 Parking Stalls.....	4
1.5 Boundaries of the Units.....	4
1.6 Permitted Alterations to the Units .....	4
1.7 Common Interest.....	4
1.8 Recreational and Other Common Facilities.....	4
1.9 Common Elements.....	5
1.10 Limited Common Elements.....	5
1.11 Special Use Restrictions .....	5
1.12 Encumbrances Against Title.....	5
1.13 Uses Permitted by Zoning and Zoning Compliance Matters .....	6
1.14 Other Zoning Compliance Matters.....	6
1.15 Conversions .....	7
1.16 Project In Agricultural District.....	8
1.17 Project with Assisted Living Facility.....	8
<b>2. PERSONS CONNECTED WITH THE PROJECT.....</b>	<b>9</b>
2.1 Developer.....	9
2.2 Real Estate Broker.....	9
2.3 Escrow Depository.....	9
2.4 General Contractor.....	9
2.5 Condominium Managing Agent.....	9
2.6 Attorney for Developer .....	9
<b>3. CREATION OF THE CONDOMINIUM AND CONDOMINIUM DOCUMENTS .....</b>	<b>10</b>
3.1 Declaration of Condominium Property Regime .....	10
3.2 Bylaws of the Association of Unit Owners .....	10
3.3 Condominium Map.....	10
3.4 House Rules.....	11
3.5 Changes to the Condominium Documents.....	11
3.6 Rights Reserved by the Developer to Make Changes to the Condominium Project or Condominium Documents.....	11
<b>4. CONDOMINIUM MANAGEMENT.....</b>	<b>12</b>
4.1 Management of the Common Elements .....	12
4.2 Estimate of the Initial Maintenance Fees.....	12
4.3 Utility Charges to be Included in the Maintenance Fee.....	12
4.4 Utilities to be Separately Billed to Unit Owner .....	12
<b>5. SALES DOCUMENTS.....</b>	<b>13</b>
5.1 Sales Documents Filed with the Real Estate Commission.....	13
5.2 Sales to Owner-Occupants.....	13
5.3 Blanket Liens.....	13
5.4 Construction Warranties .....	13
5.5 Status of Construction, Date of Completion or Estimated Date of Completion.....	14

## TABLE OF CONTENTS

	Page
5.6 Developer's Use of Purchaser Deposits to Pay for Project Construction Costs Before Closing or Conveyance .....	14
5.6.1 Purchaser Deposits Will Not Be Disbursed Before Closing or Conveyance.....	14
5.6.2 Purchaser Deposits Will Be Disbursed Before Closing.....	15
5.7 Rights Under the Sales Contract .....	17
5.8 Purchaser's Right to Cancel or Rescind a Sales Contract .....	17
5.8.1 Purchaser's 30-Day Right to Cancel a Sales Contract.....	17
5.8.2 Right to Cancel a Sales Contract if Completion Deadline Missed.....	18
5.8.3 Purchaser's Right to Rescind a Binding Sales Contract After a Material Change	18
 6. MISCELLANEOUS INFORMATION NOT COVERED ELSEWHERE IN THIS REPORT.....	 19
EXHIBIT A: Section 1.2 -- Buildings and Other Improvements	
EXHIBIT B: Section 1.3 -- Unit Types and Sizes of Units	
EXHIBIT C: Section 1.4 -- Designation of Garage and/or Parking Stall Assignments	
EXHIBIT D: Section 1.4 -- Reserved Right to Assign or Re-Assign Parking Stalls	
EXHIBIT E: Section 1.5 -- Boundaries of the Units	
EXHIBIT F: Section 1.6 -- Permitted Alterations	
EXHIBIT G: Section 1.7 -- Common Interest	
EXHIBIT H: Section 1.8 -- Recreational and Other Common Facilities	
EXHIBIT I: Section 1.9 -- Common Elements	
EXHIBIT J: Section 1.10 -- Limited Common Elements	
EXHIBIT K: Section 1.11 -- Special Use Restrictions	
EXHIBIT L: Section 1.12 -- Encumbrances Against Title	
EXHIBIT M: Section 1.13 -- Uses Permitted by Zoning and Zoning Compliance Matters	
EXHIBIT N: Section 3.5 -- Changes to the Condominium Documents	
EXHIBIT O: Section 3.6 -- Rights Reserved by the Developer to Make Changes to the Condominium Project or Condominium Documents	
EXHIBIT P: Section 4.2 -- Estimate of the Initial Maintenance Fees (& Special Disclosure Regarding Maintenance Fees)	
EXHIBIT Q: Section 5.1 -- Summary of Pertinent Provisions of Sales Contract	
EXHIBIT R: Section 5.1 -- Summary of Pertinent Provisions of Escrow Agreement	
EXHIBIT S: Section 5.2 -- Sales to Owner Occupants	
EXHIBIT T: Section 5.4 -- Construction Warranties	
EXHIBIT U: Section 6 -- Miscellaneous Information Not Covered Elsewhere in this Report	
EXHIBIT V: Unilateral Agreement and Declaration of Conditional Zoning.	
EXHIBIT W: Solid Waste Management Plan	
EXHIBIT X: Awakea at Mehana Affordable Housing Informational Circular	

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The Condominium Map (8 1/2 x 11) will NOT be provided to Buyer. Pursuant to Section 514B-86(a)(1) (A) of the Act, Seller advises Buyer that it is impractical, for legibility reasons, to provide buyers a letter-sized Condominium Map. Accordingly, Buyer shall have the opportunity to examine the Condominium Map at the Sales Office of Seller upon request.

## **General Information On Condominiums**

A condominium is a special form of ownership of real property. To create a condominium in Hawaii after July 1, 2006, the Condominium Property Act, Chapter 514B, Hawaii Revised Statutes, must be followed. In addition, certain requirements and approvals of the county in which the project is located must be satisfied and obtained.

Some condominium projects are leasehold. This means that the land and/or the building(s) and other improvements are leased to the purchaser. The lease for the land usually requires that at the end of the lease term, the lessees (unit owners) deliver their interest in the land to the lessor (fee property owner).

If you are a typical condominium unit owner, you will have two kinds of ownership: (1) ownership in your individual unit; and (2) a percentage interest in the common elements.

You will be entitled to exclusive ownership and possession of your unit. Subject to the documents governing them, condominium units may be individually bought, sold, rented, mortgaged or encumbered, and may be disposed of by will, gift or operation of law.

Your unit will, however, be part of the group of units that comprise the condominium project. Study the project's Declaration of Condominium Property Regime, Bylaws of the Association of Unit Owners, Condominium Map and House Rules, if any, which are being concurrently delivered to you with this report. These documents contain important information on the use and occupancy of the units and the common elements of the project, as well as the rules and regulations of conduct for unit owners, tenants and guests.

## **Operation of the Condominium Project**

The Association of Unit Owners is the entity through which unit owners may take action with regard to the administration, management and operation of the condominium project. Each unit owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as a unit owner. The Board and officers can take certain actions without the vote of the unit owners. For example, the Board may hire and fire employees, increase or decrease maintenance fees, adopt budgets for revenues, expenses and reserves and regulate the use, maintenance, repair and replacement of common elements. Some of these actions may significantly impact the unit owners.

Until there is a sufficient number of purchasers of units to elect a majority of the Board, it is likely at first that the Developer will effectively control the affairs of the Association. It is frequently necessary for the Developer to do so during the early stages of development and the Developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective purchasers should understand that it is important to all unit owners that the transition of control from the Developer to the unit owners be accomplished in an orderly manner and in a spirit of cooperation.

**1. THE CONDOMINIUM PROJECT**

**1.1 The Underlying Land**

Fee Simple or Leasehold Project	<input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold (attach Leasehold Exhibit)
Developer is the Fee Owner	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Fee Owner's Name if Developer is not the Fee Owner	
Address of Project	Wakea Street, Kakala Street, Manawai Street
Address of Project is expected to change because	
Tax Map Key (TMK)	(1) 9-1-160-047, CPR 1-124
Tax Map Key is expected to change because	
Land Area	7.646 acres
Developer's right to acquire the Property if Developer is not the Fee Owner (describe)	

**1.2 Buildings and Other Improvements**

Number of Buildings	16 (See Exhibit A)
Floors Per Building	2-3 floors
Number of New Building(s)	16
Number of Converted Building(s)	N/A
Principle Construction Materials (concrete, wood, hollow tile, steel, glass, etc.)	concrete, wood, metal, glass, hollow tile, aluminum, composite, synthetic and other construction materials

**1.3 Unit Types and Sizes of Units**

Unit Type	Quantity	BR/Bath	Net Living Area	Net Other Areas	Other Areas (lanai, garage, etc)	Total Area
See Exhibit <u>    B    </u>						

124	<b>Total Number of Units</b>
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Note: Net Living Area is the floor area of the unit measured from the interior surface of the perimeter walls of the unit. Other documents and maps may give floor area figures that differ from those above because a different method of determining floor area may have been used.

#### 1.4 Parking Stalls

Total Parking Stall in the Project:	357 (includes garages and open space stalls)
Number of Guest Stalls in the Project:	16 (as identified on Exhibit C)
Number of Parking Stalls Assigned to Each Unit:	At least 2
Attach Exhibit C _____ specifying the Parking Stall number(s) assigned to each unit and the type of parking stall(s) (regular, compact or tandem and indicate whether covered or open).	
If the Developer has reserved any rights to assign or re-assign parking stalls, describe such rights.	
See Exhibit D	

#### 1.5 Boundaries of the Units

Boundaries of the unit:
In this report, a "unit" is sometimes described as a "home" or "residence". See Exhibit E for a description of the unit boundaries.

#### 1.6 Permitted Alterations to the Units

Permitted alterations to the unit (if the unit is defined as a non-physical or spatial portion of the project, also describe what can be built within such portion of the project):
See Exhibit F

#### 1.7 Common Interest

<u>Common Interest</u> : Each unit will have a percentage interest in the common elements appurtenant to each unit. This interest is called the "common interest". It is used to determine each unit's share of the maintenance fees and other common profits and expenses of the condominium project. It may also be used for other purposes, including voting on matters requiring action by unit owners. The common interest for each unit in this project, as described in Declaration, is:
Described in Exhibit G _____.
As follows:

#### 1.8 Recreational and Other Common Facilities (Check if applicable):

<input type="checkbox"/>	Swimming pool
<input type="checkbox"/>	Laundry Area
<input checked="" type="checkbox"/>	Storage Area
<input type="checkbox"/>	Tennis Court
<input type="checkbox"/>	Recreation Area
<input checked="" type="checkbox"/>	Trash Chute/Enclosure(s)
<input type="checkbox"/>	Exercise Room
<input type="checkbox"/>	Security Gate
<input type="checkbox"/>	Playground
<input checked="" type="checkbox"/>	Other (describe): See Exhibit H (includes possible future development of Recreation Area)

**1.9 Common Elements**

**Common Elements:** Common elements are those parts of the condominium project other than the individual units and any other real estate for the benefit of unit owners. Although the common elements are owned jointly by all unit owners, those portions of the common elements that are designated as limited common elements (see Section 1.10 below) may be used only by those units to which they are assigned. In addition to the common facilities described in Section 1.8 above, the common elements for this project, as described in the Declaration, are set forth below.

Described in Exhibit I \_\_\_\_\_ .

Described as follows:

Common Element	Number
Elevators	2 (Building Type II)
Stairways	4 (Building Type II)
Trash Chutes	Trash Enclosures - 9 (exterior), 2 (interior)

**1.10 Limited Common Elements**

**Limited Common Elements:** A limited common element is a portion of the common elements that is reserved for the exclusive use of one or more but fewer than all units in the project.

Described in Exhibit J \_\_\_\_\_ .

Described as follows:

**1.11 Special Use Restrictions**

The Declaration and Bylaws may contain restrictions on the use and occupancy of the units. Restrictions for this project include, but are not limited to, those described below.

<input checked="" type="checkbox"/>	Pets: See Exhibit K
<input checked="" type="checkbox"/>	Number of Occupants: See Exhibit K
<input checked="" type="checkbox"/>	Other: See Exhibit K
<input type="checkbox"/>	There are no special use restrictions.

**1.12 Encumbrances Against Title**

An encumbrance is a claim against or a liability on the property or a document affecting the title or use of the property. Encumbrances may have an adverse effect on the property or your purchase and ownership of a unit in the project. Encumbrances shown may include blanket liens which will be released prior to conveyance of a unit (see Section 5.3 on Blanket Liens).

Exhibit L \_\_\_\_\_ describes the encumbrances against title contained in the title report described below.

Date of the title report: April 17, 2015

Company that issued the title report: Old Republic Title & Escrow of Hawaii Ltd.

**1.13 Uses Permitted by Zoning and Zoning Compliance Matters**

Uses Permitted by Zoning				
	Type of Use	No. of Units	Use Permitted by Zoning	Zoning
<input checked="" type="checkbox"/>	Residential	92	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	AMX-2
<input checked="" type="checkbox"/>	Commercial	10	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	AMX-2
<input checked="" type="checkbox"/>	Mix Residential/Commercial	22	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	AMX-2
<input type="checkbox"/>	Hotel		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Timeshare		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Ohana		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Industrial		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Agricultural		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Recreational		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	Other (Specify):		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is/Are this/these use(s) specifically permitted by the project's Declaration or Bylaws?			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Variances to zoning code have been granted.			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Describe any variances that have been granted to zoning code			N/A	

**1.14 Other Zoning Compliance Matters**

Conforming/Non-Conforming Uses, Structures and Lots			
<p>In general, a non-conforming use, structure or lot is a use, structure or lot that was lawful at one time but that does not now conform to present zoning requirements. Under present zoning requirements, limitations may apply to extending, enlarging or continuing the non-conformity and to altering and repairing non-conforming structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.</p> <p>If a variance has been granted or if uses, structures or lots are either non-conforming or illegal, the purchaser should consult with county zoning authorities as to possible limitations that may apply in situations such as those described above.</p> <p>A purchaser may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure or lot.</p>			
	Conforming	Non-Conforming	Illegal
Uses	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Structures	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lot	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>If a non-conforming use, structure or lot exists in this project, this is what will happen under existing laws or codes if the structure is damaged or destroyed:</p> <p>N/A</p>			

**1.15 Conversions**

<p><b>Developer's statements regarding units that may be occupied for residential use and that have been in existence for five years or more.</b></p>	<p><input type="checkbox"/> <b>Applicable</b></p> <p><input checked="" type="checkbox"/> <b>Not Applicable</b></p>
<p>Developer's statement, based upon a report prepared by a Hawaii-licensed architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the units:</p>	
<p>Developer's statement of the expected useful life of each item reported above:</p>	
<p>List of any outstanding notices of uncured violations of any building code or other county regulations:</p>	
<p>Estimated cost of curing any violations described above:</p>	

<p><b>Verified Statement from a County Official</b></p>	
<p>Regarding any converted structures in the project, attached as Exhibit ____ is a verified statement signed by an appropriate county official which states that either:</p> <p>(A) The structures are in compliance with all zoning and building ordinances and codes applicable to the project at the time it was built, and specifying, if applicable:</p> <ul style="list-style-type: none"> <li>(i) Any variances or other permits that have been granted to achieve compliance;</li> <li>(ii) Whether the project contains any legal non-conforming uses or structures as a result of the adoption or amendment of any ordinances or codes; and</li> <li>(iii) Any violations of current zoning or building ordinances or codes and the conditions required to bring the structure into compliance;</li> </ul> <p style="text-align: center;">or</p> <p>(B) Based on the available information, the county official cannot make a determination with respect to the foregoing matters in (A) above.</p>	
<p>Other disclosures and information:</p>	

**1.16 Project In Agricultural District**

<p><b>Is the project in an agricultural district as designated by the land use laws of the State of Hawaii?</b>  <b>If answer is "Yes", provide information below.</b></p>	<p><input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No</p>
<p>Are the structures and uses anticipated by the Developer's promotional plan for the project in compliance with all applicable state and county land use laws? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the answer is "No", provide explanation.</p>	
<p>Are the structures and uses anticipated by the Developer's promotional plan for the project in compliance with all applicable county real property tax laws? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the answer is "No", provide explanation and state whether there are any penalties for noncompliance.</p>	
<p>Other disclosures and information:</p>	

**1.17 Project with Assisted Living Facility**

<p><b>Does the project contain any assisted living facility units subject to Section 321-11(10), HRS?</b>  <b>If answer is "Yes", complete information below.</b></p>	<p><input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No</p>
<p>Licensing requirements and the impact of the requirements on the costs, operations, management and governance of the project.</p>	
<p>The nature and the scope of services to be provided.</p>	
<p>Additional costs, directly attributable to the services, to be included in the association's common expenses.</p>	
<p>The duration of the provision of the services.</p>	
<p>Other possible impacts on the project resulting from the provision of the services.</p>	
<p>Other disclosures and information.</p>	

## 2. PERSONS CONNECTED WITH THE PROJECT

<p><b>2.1 Developer(s)</b></p>	<p>Name: D.R. Horton - Schuler Homes, LLC, a Delaware limited liability company, dba D.R. Horton-Schuler Division</p> <p>Business Address: 130 Merchant Street, Suite 112 Honolulu, Hawaii 96813</p> <p>Business Phone Number : (808) 521-5661</p> <p>E-mail Address: rbruhl@drhorton.com</p>
<p>Names of officers and directors of developers that are corporations; general partners of a partnership; partners of a limited liability partnership (LLP); or a manager and members of a limited liability company (LLC) (attach separate sheet if necessary).</p>	<p>see Page 9a</p>
<p><b>2.2 Real Estate Broker</b></p>	<p>Name: see page 9a</p> <p>Business Address:</p> <p>Business Phone Number:</p> <p>E-mail Address:</p>
<p><b>2.3 Escrow Depository</b></p>	<p>Name: Old Republic Title and Escrow of Hawaii, Ltd.</p> <p>Business Address: 900 Fort St Mall, Ste 1900 Honolulu, HI 96813</p> <p>Business Phone Number: (866) 783-2800</p>
<p><b>2.4 General Contractor</b></p>	<p>Name: Vertical Construction Corporation</p> <p>Business Address: 130 Merchant Street, Suite 112 Honolulu, Hawaii 96813</p> <p>Business Phone Number: (808) 521-5661</p>
<p><b>2.5 Condominium Managing Agent</b></p>	<p>Name: Hawaiiana Management Company, Ltd.</p> <p>Business Address: 711 Kapiolani Boulevard, Suite 700 Honolulu, Hawaii 96813</p> <p>Business Phone Number: (808) 593-9100</p>
<p><b>2.6 Attorney for Developer</b></p>	<p>Name: Case Lombardi &amp; Pettit/Dennis M. Lombardi, Esq.</p> <p>Business Address: 737 Bishop Street, Suite 2600 Honolulu, Hawaii 96813</p> <p>Business Phone Number: (808) 547-5400</p>

**2. Persons Connected with the Project**

<p>Names of officers and directors of developers that are corporations; general partners of a partnership; partners of a limited liability partnership (LLP); or a manager and members of a limited liability company (LLC) (attach separate sheet if necessary).</p>	<p>Donald R. Horton, Chairman of the Board and Director; David V. Auld, President &amp; Chief Executive Officer; Murray, Michael J., Executive Vice President &amp; Chief Operating Officer; Bill W. Wheat, Executive Vice President &amp; Chief Financial Officer; Ted I. Harbour, Senior Vice President and Assistant Secretary; Thomas B. Montano, Secretary; Jeff Tebeaux, Vice President and Treasurer; Matthew J. Farris, Vice President and Region President; Robert Q. Bruhl, Vice President and Division President; Michael T. Jones, Vice President and Division President; Cade C. Anderson, Vice President; Dale R. Eggleston, Vice President; Joan L. Fleming, Vice President; Mary K. Flood, Vice President of Sales &amp; Marketing; Jason E. Frank, Vice President and Region Chief Financial Officer; Alan D. Labbe, Vice President of Construction; William E. Mayer III, Vice President and Assistant Secretary; Mariette Menne, Vice President and Purchasing Manager; Randy Miyashiro, Vice President and Region Controller; Tracy Nagata, Vice President of Purchase and Design; Deborah S. Porter, Vice President and Region Controller; Esther H. Roberts, Vice President and Assistant Secretary; Laurie A. Tennison, Vice President and Division Chief Financial Officer; Kelly White, Vice President and Assistant Secretary; Kelly S. Alsbrook, Assistant Secretary and Escrow Coordinator; David L. Beeson, Assistant Secretary; Tracy L. Burks, Assistant Secretary; Ashley Dagley, Assistant Secretary; Terry Gallagher, Assistant Secretary; Cathy Hendrickson, Assistant Secretary; Paula D. Hunter-Perkins, Assistant Secretary.</p> <p>All officers are officers of Vertical Construction Corporation, the Developer's manager</p>
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**2.2 Real Estate Broker**

Name: D.R. Horton - Schuler Homes, LLC  
 Business Address: 130 Merchant Street, Suite 112  
 Honolulu, HI 96813

Business Phone Number: 808-521-5661

As to the Commercial Units, the Co-Real Estate Broker is:

Name: Sofos Realty Corporation  
 Business Address: 600 Kapiolani Boulevard, Suite 200  
 Honolulu, HI 96813

Business Phone: 808-522-5999

### 3. CREATION OF THE CONDOMINIUM AND CONDOMINIUM DOCUMENTS

A condominium is created by recording in the Bureau of Conveyances (Regular System) or filing in the Office of the Assistant Registrar of the Land Court, or both, a Declaration of Condominium Property Regime, a Condominium Map and the Bylaws of the Association of Unit Owners. The Condominium Property Act (Chapter 514B, HRS), the Declaration, Bylaws and House Rules control the rights and obligations of the unit owners with respect to the project and the common elements, to each other, and to their respective units.

#### 3.1 Declaration of Condominium Property Regime

The Declaration of Condominium Property Regime contains a description of the land, buildings, units, common interests, common elements, limited common elements, and other information relating to the condominium project.

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	November 4, 2013	T-8709235

#### Amendments to Declaration of Condominium Property Regime

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	November 18, 2013	T-8722278
Land Court	February 7, 2014	T-8807191
Land Court	February 6, 2014	T-8807192
see page 10a		

#### 3.2 Bylaws of the Association of Unit Owners

The Bylaws of the Association of Unit Owners govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Unit Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters that affect how the condominium project will be governed.

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	February 15, 2013	T-8446409

#### Amendments to Bylaws of the Association of Unit Owners

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	November 4, 2013	T-8709236
Land Court	December 5, 2014	T-9109187

#### 3.3 Condominium Map

The Condominium Map contains a site plan and floor plans, elevations and layout of the condominium project. It also shows the floor plan, unit number and dimensions of each unit.

Land Court Map Number	2193
Bureau of Conveyances Map Number	
Dates of Recordation of Amendments to the Condominium Map: 4/17/13, 9/16/13	

**Section 3.1 Continued**

Land Court or Bureau of Conveyances	Date of Document	Document Number
Land Court	April 9, 2014	T-8878298
Land Court	May 9, 2014	T-8897181
Land Court	June 10, 2014	T-8936277
Land Court	July 7, 2014	T-8955204
Land Court	July 10, 2014	T-8963182
Land Court	August 11, 2014	T-8991228
Land Court	June 5, 2014	T-9024125
Land Court	October 8, 2014	T-9053184
Land Court	October 10, 2014	T-9053185
Land Court	November 5, 2014	T-9088536
Land Court	November 6, 2014	T-9088537
Land Court	December 5, 2014	T-9109186
Land Court	December 5, 2014	T-9114160
Land Court	January 16, 2015	T-9160374
Land Court	February 11, 2015	T-9191138
Land Court	April 27, 2015	T-9258358

**3.4 House Rules**

The Board of Directors may adopt rules and regulations (commonly called "House Rules") to govern the use and operation of the common elements and limited common elements. House Rules may cover matters such as parking regulations, hours of operation for common facilities such as recreation areas, use of lanais and requirements for keeping pets. These rules must be followed by owners, tenants, and guests. They do not need to be recorded or filed to be effective. The initial House Rules are usually adopted by the Developer. Changes to House Rules do not need to be recorded to be effective.

The House Rules for this project:		
Are Proposed	<input type="checkbox"/>	
Have Been Adopted and Date of Adoption	<input checked="" type="checkbox"/>	February 15, 2013
Developer does not plan to adopt House Rules	<input type="checkbox"/>	

**3.5 Changes to the Condominium Documents**

Changes to Condominium Documents: Changes to the Declaration, Bylaws and Condominium Map are effective only if they are duly adopted and recorded. Where permitted, the minimum percentages of the common interest that must vote for or give written consent to changes to the Declaration, Bylaws and Condominium Map are set forth below. The percentages for any individual condominium project may be more than the minimum set by law if the Declaration or Bylaws for the project so provide.

Document	Minimum Set by Law	This Condominium
Declaration	67%	See Exhibit N
Bylaws	67%	See Exhibit N

**3.6 Rights Reserved by the Developer to Make Changes to the Condominium Project or Condominium Documents**

<input type="checkbox"/>	No rights have been reserved to the Developer to change the Declaration, Bylaws, Condominium Map or House Rules (if any).
<input checked="" type="checkbox"/>	Developer has reserved the right to change the Declaration, Bylaws, Condominium Map and House Rules (if any) and to add to or merge the project or to develop the project in one or more phases, and such rights are summarized as follows:  See Exhibit O

#### 4. CONDOMINIUM MANAGEMENT

##### 4.1 Management of the Common Elements

<u>Management of the Common Elements:</u> The Association of Unit Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a condominium managing agent to assist the Association in managing the condominium project.	
The initial Condominium Managing Agent for this project is (check one):	
<input checked="" type="checkbox"/>	Not affiliated with the Developer
<input type="checkbox"/>	None (self-managed by the Association)
<input type="checkbox"/>	The Developer or an affiliate of the Developer
<input type="checkbox"/>	Other (explain)

##### 4.2 Estimate of the Initial Maintenance Fees

<u>Estimate of the Initial Maintenance Fees:</u> The Association will make assessments against your unit to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, a lien may be placed on your unit and the unit may be sold through a foreclosure proceeding. Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.
Exhibit P contains a breakdown of the estimated annual maintenance fees and the monthly estimated maintenance fee for each unit, certified to have been based on generally accepted accounting principles, with the Developer's statement as to when a unit owner shall become obligated to start paying the unit owner's share of the common expenses.

##### 4.3 Utility Charges to be Included in the Maintenance Fee

If checked, the following utilities are included in the maintenance fee:	
<input checked="" type="checkbox"/>	Electricity for the common elements
<input type="checkbox"/>	Gas for the common elements
<input checked="" type="checkbox"/>	Water for the common elements
<input type="checkbox"/>	Sewer
<input type="checkbox"/>	TV Cable
<input checked="" type="checkbox"/>	Other (specify) Private Trash Service

##### 4.4 Utilities to be Separately Billed to Unit Owner

If checked, the following utilities will be billed to each unit owner and are not included in the maintenance fee:	
<input checked="" type="checkbox"/>	Electricity for the Unit only
<input type="checkbox"/>	Gas for the Unit only
<input checked="" type="checkbox"/>	Water Association may submeter
<input checked="" type="checkbox"/>	Sewer Association may submeter
<input checked="" type="checkbox"/>	TV Cable
<input checked="" type="checkbox"/>	Other (specify) Association may charge a submetering service fee

## 5. SALES DOCUMENTS

### 5.1 Sales Documents Filed with the Real Estate Commission

<input type="checkbox"/>	Specimen Sales Contract Exhibit <u>Q</u> contains a summary of the pertinent provisions of the sales contract. Including but not limited to any rights reserved by the Developer.
<input checked="" type="checkbox"/>	Escrow Agreement dated: November 14, 2012 Name of Escrow Company: Old Republic Title and Escrow of Hawaii, Ltd. Exhibit <u>R</u> contains a summary of the pertinent provisions of the escrow agreement.
<input type="checkbox"/>	Other:

### 5.2 Sales to Owner-Occupants

If this project contains three or more residential units, the Developer shall designate at least fifty percent (50%) of the units for sale to Owner-Occupants.

<input checked="" type="checkbox"/>	The sales of units in this project are subject to the Owner-Occupant requirements of Chapter 514B.
<input type="checkbox"/>	Developer has designated the units for sale to Owner-Occupants in this report. See Exhibit ____.
<input checked="" type="checkbox"/>	Developer has or will designate the units for sale to Owner-Occupants by publication.

### 5.3 Blanket Liens

Blanket Liens: A blanket lien is an encumbrance (such as a mortgage) on the entire condominium project or more than one unit that secures some type of monetary debt (such as a loan) or other obligation. Blanket liens (except for improvement district or utility assessments) must be released as to a unit before the developer conveys the unit to a purchaser. The purchaser's interest will be affected if the developer defaults and the lien is foreclosed prior to conveying the unit to the purchaser.

<input checked="" type="checkbox"/>	There are <u>no blanket liens</u> affecting title to the individual units.
<input type="checkbox"/>	There are <u>blanket liens</u> that may affect title to the individual units.

<u>Type of Lien</u>	Effect on Purchaser's Interest and Deposit if Developer Defaults or Lien is Foreclosed Prior to Conveyance

### 5.4 Construction Warranties

Construction Warranties: Warranties for individual units and the common elements, including the beginning and ending dates for each warranty (or the method of calculating them), are as set forth below:

Building and Other Improvements:

See page 13a

Appliances:

See page 13a

#### 5.4 Construction Warranties

Building and Other Improvements: The Developer's sole warranty will be provided in the form attached to this Public Report as **Exhibit T**. Prospective purchasers should read the Limited Warranty with care to understand coverage, limitations and exclusions, and procedures.

Appliances: The Developer makes no warranty as to appliances or other consumer products installed in any Residence or in the common elements. If there are applicable manufacturer's or dealer's warranties relating to such appliances or other consumer products, the Developer will endeavor to assign and pass on to each Unit owner the benefit of such warranties.

**5.5 Status of Construction, Date of Completion or Estimated Date of Completion**

<p>Status of Construction: Construction commenced March 2013</p>
<p>Completion Deadline: If a sales contract for a unit is signed before the construction of the unit has been completed, or, in the case of a conversion, completion of any repairs, does not occur by the completion deadline set forth below, one of the remedies available to a purchaser is a cancellation of the purchaser's sales contract. The sales contract may include a right of the Developer to extend the completion deadline for force majeure as defined in the sales contract. The sales contract may also provide additional remedies for the purchaser.</p>
<p>Completion Deadline for any unit not yet constructed, as set forth in the sales contract: See page 14a.</p>
<p>Completion Deadline for any repairs required for a unit being converted, as set forth in the sales contract:</p>

**5.6 Developer's Use of Purchaser Deposits to Pay for Project Construction Costs Before Closing or Conveyance**

<input type="checkbox"/>	<p>Spatial Units. The Developer hereby declares by checking the box to the left that it is offering spatial units for sale and will not be using purchasers' deposits to pay for any costs to pay for project construction or to complete the project.</p> <p>Should the developer be using purchasers' deposits to pay for any project construction costs or to complete the project including lease payments, real property taxes, architectural, engineering, legal fees, financing costs; or costs to cure violations of county zoning and building ordinances and codes or other incidental project expenses, the Developer has to met certain requirements, described below in 5.6.1 or 5.6.2..</p>
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The Developer is required to deposit all moneys paid by purchasers in trust under a written escrow agreement with a Hawaii licensed escrow depository. Escrow shall not disburse purchaser deposits to the Developer or on behalf of the Developer prior to closing, except if a sales contract is canceled or if Developer has met certain requirements, which are described below.

**5.6.1 Purchaser Deposits Will Not Be Disbursed Before Closing or Conveyance**

<input checked="" type="checkbox"/>	<p>The Developer hereby declares by checking the box to the left that it shall use its own funds to complete the construction of the condominium project by the date indicated in Section 5.5 of this report, and the Developer, pursuant to its own analysis and calculations, certifies that it has sufficient funds to complete the construction of the condominium project.</p> <p><i>If this box is checked, Section 5.6.2, which follows below, will not be applicable to the project.</i></p>
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**5.5 Status of Construction, Date of Completion or Estimated Date of Completion**

Completion Deadline for any unit not yet constructed, as set forth in the sales contract: The Unit shall be completed no later than twenty-four (24) months following the date that the sales contract becomes a binding contract, which is the earlier of the date: (a) Buyer delivers to Seller Buyer's written waiver of Buyer's right to cancel the sales contract following Seller's delivery to Buyer of the Notice of Right to Cancel this sales contract, or (b) thirty (30) days have expired following Seller's delivery to Buyer of the Notice of Right to Cancel, provided Buyer has not exercised Buyer's right to cancel, subject to Seller's right to extend the Completion Deadline for force majeure events, which are defined in the sales contract.

Completion Deadline for any repairs required for a unit being converted, as set forth in the sales contract.

### 5.6.2 Purchaser Deposits Will Be Disbursed Before Closing

Hawaii law provides that, if certain statutory requirements are met, purchaser deposits in escrow under a binding sales contract may be used before closing to pay for certain project costs. For this project, the Developer indicates that purchaser deposits may be used for the following purposes (check applicable box):

<input type="checkbox"/>	For new construction: to pay for project construction costs described in the Developer's budget and approved by the Developer's lender or an otherwise qualified, financially disinterested person; or
<input type="checkbox"/>	For conversions: to pay for repairs necessary to cure violations of county zoning and building ordinances and codes, for architectural, engineering, finance and legal fees, and for other incidental expenses.

In connection with the use of purchaser deposits (check Box A or Box B):

<p><b>Box A</b></p> <p><input type="checkbox"/></p>	<p>The Developer has submitted all information and documents required by law and the Commission prior to the disbursement of purchaser deposits before closing. This means that the Developer may use such deposits before closing. If the Developer decides not to use purchaser deposits before closing, the Developer does not need to amend this report.</p> <p>If Box A is checked, you should read and carefully consider the following notice, which is required by law:</p> <p><b><u>Important Notice Regarding Your Deposits: Deposits that you make under your sales contract for the purchase of the unit may be disbursed before closing of your purchase to pay for project costs, construction costs, project architectural, engineering, finance, and legal fees, and other incidental expenses of the project. While the developer has submitted satisfactory evidence that the project should be completed, it is possible that the project may not be completed. If your deposits are disbursed to pay project costs and the project is not completed, there is a risk that your deposits will not be refunded to you. You should carefully consider this risk in deciding whether to proceed with your purchase.</u></b></p>
<p><b>Box B</b></p> <p><input type="checkbox"/></p>	<p>The Developer has <u>not</u> submitted all information and documents required by law and the Commission, and, until all such information and documents are submitted, thus, the Developer cannot use purchaser deposits.</p> <p>If the Developer later submits all information and documents required by law and the Commission for the use of purchaser deposits, then the Developer must provide an amendment to this report or an amended developer's public report to each purchaser who has signed a sales contract. At such time, the <b><u>Important Notice Regarding Your Deposits</u></b> set forth immediately above will apply to all purchasers and will be restated in the amendment to this report or an amended developer's public report. When an effective date for such an amendment or an amended developer's public report is issued, <b><u>you will not have the right to rescind or cancel the sales contract by reason of such submission and amendment.</u></b> (This, however, does not affect your right to rescind for material changes or any other right you may have to rescind or cancel the sales contract, as described in Section 5.8 below.) If the Developer decides not to use purchaser deposits before closing, the Developer does not need to amend this report.</p> <p>You should understand that, although the <b><u>Important Notice Regarding Your Deposits</u></b> set forth above does not currently apply to you, it might apply to you in the future, and, therefore, you should read and carefully consider it now to ensure that you understand the risk involved in deciding whether to proceed with your purchase.</p>

**Material House Bond.** If the Developer has submitted to the Commission a completion or performance bond issued by a material house instead of a surety as part of the information provided prior to the use of purchaser deposits prior to closing or conveyance of a unit, the Developer shall disclose the same below and disclose the impact of any restrictions on the Developer's use of purchaser deposits.

## 5.7 Rights Under the Sales Contract

Before signing the sales contract, prospective purchasers should carefully review all documents relating to the project. These include but are not limited to the documents listed below. Items 2, 3 and 4 are made a part of this public report, as well as Item 5, if any, and are being delivered to you with this report.

1.	<b>Developer's Public Report</b>
2.	<b>Declaration of Condominium Property Regime (and any amendments)</b>
3.	<b>Bylaws of the Association of Unit Owners (and any amendments)</b>
4.	<b>Condominium Map (and any amendments)</b>
5.	House Rules, if any
6.	Escrow Agreement
7.	Hawaii's Condominium Property Act (Chapter 514B, HRS, as amended) and Hawaii Administrative Rules (Chapter 16-107, adopted by the Real Estate Commission, as amended), provided that rules and regulations under Chapter 514B have not yet been adopted.
8.	Other:
All documents as provided in Exhibit L. Commercial Use Guidelines for Mehana at Kapolei.	

Copies of the condominium and sales documents and amendments made by the Developer are available for review through the Developer or through the Developer's sales agent, if any. The Condominium Property Regime law (Chapter 514B, HRS) and the Administrative Rules (Chapter 107, HAR), are available online. Please refer to the following sites:

Website to access official copy of laws: [www.capitol.hawaii.gov](http://www.capitol.hawaii.gov)

Website to access rules: [www.hawaii.gov/dcca/har](http://www.hawaii.gov/dcca/har)

## 5.8 Purchaser's Right to Cancel or Rescind a Sales Contract

A purchaser's right to cancel a sales contract or to rescind a sales contract may arise under varying circumstances. In the sections below, some circumstances that will give rise to a purchaser's right to cancel or rescind are described, together with what a purchaser must do if the purchaser wishes to exercise any of the rights.

### 5.8.1 When a Sales Contract becomes Binding and Purchaser's 30-Day Right to Cancel a Sales Contract

A sales contract signed by a purchaser and the developer will not become binding on a purchaser or the Developer until the following events have taken place:

(1) The purchaser has signed the sales contract.  
(2) The Developer has delivered to the purchaser a true copy of the developer's public report with an effective date issued by the Commission, together with all amendments to the report as of the date of delivery, and the project's recorded Declaration and Bylaws, House Rules (if any), the Condominium Map and any amendments to them to date (all of which are a part of the developer's public report). If it is impracticable to include a letter-sized Condominium Map, the Developer must provide written notice of an opportunity to examine the Condominium Map.

(3) The Developer has delivered to the purchaser a notice of the purchaser's 30-day cancellation right on a form prescribed by the Commission.

(4) The purchaser does at least one of the following:

(a) Waives the purchaser's right to cancel the sales contract within 30 days from receipt of the notice of the purchaser's 30-day cancellation right; or

(b) Allows the 30-day cancellation period to expire without exercising the right to cancel; or

(c) Closes the purchase of the unit before the 30-day cancellation period expires.

The purchaser or the Developer may cancel the sales contract at any time during the 30-day cancellation period, and the sales contract will be canceled and the purchaser's deposits returned to the purchaser, less any escrow cancellation fee and other costs associated with the purchase, up to a maximum of \$250.

### **5.8.2 Right to Cancel a Sales Contract if Completion Deadline Is Missed**

In addition to the purchaser's 30-day cancellation right described in Section 5.8.1 above, when a sales contract is signed before completion of construction of a project, the purchaser will have the right to cancel if the unit is not completed by certain deadlines. In conversion projects, there must be a deadline for completion of any required repairs. Every sales contract shall contain an agreement of the Developer that the completion of construction shall occur on or before the completion deadline, and that completion deadline is set forth in this report in Section 5.5. The sales contract shall provide that the purchaser may cancel the sales contract at any time after the specified completion deadline, if completion of construction does not occur on or before the completion deadline, as the same may have been extended. Upon a cancellation, the purchaser's deposits shall be refunded, less any escrow cancellation fee and other costs associated with the purchase, up to a maximum of \$250.00.

### **5.8.3 Purchaser's Right to Rescind a Binding Sales Contract After a Material Change**

If a "material change" in a project occurs after a purchaser has signed a sales contract that has become binding, the purchaser will have a 30-day right to rescind after notification and description of the material change. A material change is defined in the Condominium Property Act to be any change that "directly, substantially and adversely affects the use or value of (1) a purchaser's unit or appurtenant limited common elements; or (2) those amenities of the project available for the purchaser's use."

The purchaser will be informed of the material change by the developer on a form prescribed by the Commission containing a description of the material change.

After notice of the material change, the purchaser may waive the right to rescind by:

- (1) Checking the waiver box on the rescission form; or
- (2) Letting the 30-day rescission period expire, without taking any action to rescind; or
- (3) Closing the purchase of the unit before the 30-day rescission period expires.

The rescission form must be signed by all purchasers of the affected unit and delivered to the developer no later than midnight of the 30<sup>th</sup> calendar day after the purchasers received the rescission form from the developer. Purchasers who validly exercise the right of rescission shall be entitled to a prompt and full refund of any moneys paid.

A rescission right shall not apply in the event of any additions, deletions, modifications and reservations including, without limitation, the merger or addition or phasing of a project, made pursuant to the terms of the project's Declaration.

These provisions shall not preclude a purchaser from exercising any rescission rights pursuant to a contract for the sale of a unit or any applicable common law remedies.

## 6. MISCELLANEOUS INFORMATION NOT COVERED ELSEWHERE IN THIS REPORT

See Exhibit U.

The Developer declares subject to the penalties set forth in Section 514B-69, HRS, that this project conforms to the existing underlying county zoning for the project, zoning and building ordinances and codes and all applicable permitting requirements adopted by the county in which the project is located, all in accordance with Sections 514B-5 and 32(a)(13), HRS.

For any conversion, if any variances have been granted, they are specified in Section 1.14 of this report, and, if purchaser deposits are to be used by the Developer to cure any violations of zoning, permitting requirements or rules of the county in which the project is located, the violation is specified in Section 1.15 of this report, along with the requirements to cure any violation, and Section 5.5 specifies the date by which the cure will be completed.

The Developer hereby certifies that all the information contained in this report and the exhibits attached to this report and all documents to be furnished by the Developer to purchasers concerning the project have been reviewed by the Developer and are, to the best of the Developer's knowledge, information and belief, true, correct and complete. The Developer hereby agrees promptly to amend this report to report and include either or all material facts, material or pertinent changes to any information contained in or omitted from this report and to file annually a report to update the material contained in this report at least 30 days prior to the anniversary date of the effective date of this report.

D.R. HORTON - SCHULER HOMES, LLC, a Delaware  
limited liability company, dba D.R. Horton-Schuler  
Division by Vertical Construction Corporation, Its Manager

\_\_\_\_\_  
Printed Name of Developer

By:   
\_\_\_\_\_  
Duly Authorized Signatory\*

June 15, 2015  
Date

Robert Q. Bruhl, Division President, Hawaii Division

\_\_\_\_\_  
Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, City and County of Honolulu

Planning Department, City and County of Honolulu

**\*Must be signed for a corporation by an officer; for a partnership or limited liability partnership (LLP) by the general partner; for a limited liability company (LLC) by the manager or an authorized member; and for an individual by the individual.**

## **EXHIBIT A**

### Section 1.2 -- Buildings and Other Improvements

#### **DESCRIPTION OF BUILDINGS**

The Community (the term "Community" shall have the same meaning herein as "project" in HRS 514B) shall have sixteen (16) buildings. The buildings shall be constructed principally of concrete, wood, metal, glass, hollow tile, aluminum, composite, synthetic and other construction materials. Each building is identified on the Condominium Map as 1/I, 2/I, 3/I, 4/IA, 5/IA, 6/III, 7/III, 8/II, 9/II, 10/III, 11/III, 12/I, 13/I, 14/I, 15/III, 16/III (referring first to the building number and then building type).

There are four (4) different building types in the Community.

Building Type I has six (6) buildings. Each building is a two-story structure and contains eight (8) Units.

Building Type IA has two (2) buildings. Each building is a two-story structure and contains six (6) Units.

Building Type II has two (2) buildings. Each building is a three-story structure and contains seventeen (17) Units.

Building Type III has six (6) buildings. Each building is a two-story structure and contains five (5) Units.

#### **DESCRIPTION OF UNITS**

The Community shall contain one hundred twenty-four (124) Units.

There are twenty-one (21) different Unit types in the Community, designated as Unit types A, A1, B, C, C1/C1R, D, D1/D1R, E, F, G, G1, H, H1, J/JR, K/KR, L, Commercial 1, Commercial 2, Commercial 3, Commercial 4 and Commercial 5. Unit types designated with an upper case "R" are reverse floor plans.

Building Type I contains A, B, C, C1/C1R, D and D1/D1R Unit types.

Building Type IA contains A1, B, C, C1/C1R, D and D1/D1R Unit types.

Building Type II contains E, F, G, G1, H, H1, Commercial 1, Commercial 2, Commercial 3, Commercial 4 and Commercial 5 Unit types.

Building Type III contains J/JR, K/KR and L Unit types.

A description of each Unit type is as follows:

**Unit type A:** Unit type A units are two-story units containing two bedrooms, two and one-half bathrooms, living/dining area, kitchen, entry lanai and other improvements as shown on the Condominium Map, and having a one-car detached garage. These Unit types contain a net

living area of approximately 1,087 square feet, a lanai area of approximately 56 square feet, and a detached garage area of approximately 226 square feet. Unit type A units are "Residential Units" as described in the Declaration. There are six (6) Unit type A units in the Community.

Unit type A1: Unit type A1 units are two-story units containing two bedrooms, two and one-half bathrooms, living/dining area, kitchen, entry lanai and other improvements as shown on the Condominium Map, and having a one-car detached garage. These Unit types contain a net living area of approximately 1,087 square feet, a lanai area of approximately 56 square feet, and a detached garage area of approximately 226 square feet. Unit type A1 units are "Residential Units" as described in the Declaration. There are two (2) Unit type A1 units in the Community.

Unit type B: Unit type B units are two-story units containing two bedrooms, two and one-half bathrooms, living/dining area, kitchen, entry lanai and other improvements as shown on the Condominium Map, and having a one-car detached garage. These Unit types contain a net living area of approximately 1,203 square feet, a lanai area of approximately 56 square feet, and a detached garage area of approximately 224 square feet. Unit type B units are "Residential Units" as described in the Declaration. There are eight (8) Unit type B units in the Community.

Unit type C: Unit type C units are two-story units containing three bedrooms, two and one-half bathrooms, living/dining area, family area, kitchen, entry lanai and other improvements as shown on the Condominium Map, and having a one-car detached garage. These Unit types contain a net living area of approximately 1,526 square feet, a lanai area of approximately 60 square feet, and a detached garage area of approximately 224 square feet. Unit type C units are "Residential Units" as described in the Declaration. There are eight (8) Unit type C units in the Community.

Unit type C1/C1R: Unit type C1/C1R units are two-story units containing three bedrooms, two and one-half bathrooms, living/dining area, family area, kitchen, entry lanai and other improvements as shown on the Condominium Map and having a one-car detached garage. These Unit types contain a net living area of approximately 1,526 square feet, a lanai area of approximately 62 square feet, and a detached garage area of approximately 227 square feet. Unit type C1/C1R units are "Residential Units" as described in the Declaration. There are eight (8) Unit type C1 units and six (6) Unit type C1R units in the Community.

Unit type D: Unit type D units are two-story units containing a flex space, storage area, three bedrooms, three bathrooms, great room, kitchen, lanai, entry lanai (at levels one and two), balcony (at level two), one-car garage and other improvements as shown on the Condominium Map. These Unit types contain a net living/floor area of approximately 1,870 square feet (inclusive of a flex area of up to approximately 462 square feet, including the bedroom option), a lanai area of approximately 77 square feet, an entry lanai area at level one of approximately 87 square feet, an entry lanai area at level two of approximately 24 square feet, a balcony area of approximately 89 square feet, and a garage area of approximately 277 square feet. Unit type D units are "Live-Work Units" as described in the Declaration. There are eight (8) Unit type D units in the Community.

Unit type D1/D1R: Unit type D1/D1R units are two-story units containing a flex space, storage area, three bedrooms, three bathrooms, great room, kitchen, lanai, entry lanai (at levels one and two), balcony (at level two), one-car garage and other improvements as shown on the Condominium Map. These Unit types contain a net living/floor area of approximately 1,870 square feet (inclusive of a flex area of up to approximately 462 square feet, including the bedroom option), a lanai area of approximately 77 square feet, an entry lanai area at level one

of approximately 87 square feet, an entry lanai area at level two of approximately 24 square feet, a balcony area of approximately 89 square feet, and a garage area of approximately 277 square feet. Unit type D1/D1R units are "Live-Work Units" as described in the Declaration. There are eight (8) Unit type D1 units and six (6) Unit type D1R units in the Community.

Unit type E: Unit type E units are single-story units containing two bedrooms, two bathrooms, living room, kitchen, balcony and other improvements as shown on the Condominium Map and have an appurtenant one-car garage on the ground floor. These Unit types contain a net living area of approximately 1,084 square feet and a balcony area of approximately 34 square feet. The one-car garage on the ground floor ranges from approximately 211-213 square feet. Unit type E units are "Residential Units" as described in the Declaration. There are four (4) Unit type E units in the Community.

Unit type F: Unit type F units are single-story units containing two bedrooms, two bathrooms, living room, kitchen, balcony and other improvements as shown on the Condominium Map and have an appurtenant one-car garage on the ground floor, with the exception of Units 813 and 913. These Unit types contain a net living area of approximately 1,023 square feet and a balcony area of approximately 55 square feet. The one-car garage on the ground floor (appurtenant to Units 823 and 923) is approximately 214 square feet. Unit type F units are "Residential Units" as described in the Declaration. There are four (4) Unit type F units in the Community.

Unit type G: Unit type G units are single-story units containing three bedrooms, two bathrooms, living room, kitchen, balcony and other improvements as shown on the Condominium Map and have an appurtenant one-car garage on the ground floor. These Unit types contain a net living area of approximately 1,184 square feet and a balcony area of approximately 69 square feet. The one-car garage on the ground floor ranges from approximately 253-261 square feet. Unit type G units are "Residential Units" as described in the Declaration. There are four (4) Unit type G units in the Community.

Unit type G1: Unit type G1 units are single-story units containing two bedrooms, two bathrooms, living room, kitchen, balcony and other improvements as shown on the Condominium Map and have an appurtenant one-car garage on the ground floor. These Unit types contain a net living area of approximately 1,201 square feet and a balcony area of approximately 45 square feet. The one-car garage on the ground floor ranges from approximately 234-242 square feet. Unit type G1 units are "Residential Units" as described in the Declaration. There are four (4) Unit type G1 units in the Community.

Unit type H: Unit type H units are single-story units containing three bedrooms, two bathrooms, living room, kitchen, balcony and other improvements as shown on the Condominium Map and have an appurtenant one-car garage on the ground floor. These Unit types contain a net living area of approximately 1,232 square feet and a balcony area of approximately 69 square feet. The one-car garage on the ground floor ranges from approximately 252-316 square feet. Unit type H units are "Residential Units" as described in the Declaration. There are four (4) Unit type H units in the Community.

Unit type H1: Unit type H1 units are single-story units containing three bedrooms, two bathrooms, living room, kitchen, balcony and other improvements as shown on the Condominium Map and have an appurtenant one-car garage on the ground floor. These Unit types contain a net living area of approximately 1,242 square feet and a balcony area of approximately 45 square feet. The one-car garage on the ground floor ranges from

approximately 231-241 square feet. Unit type H1 units are "Residential Units" as described in the Declaration. There are four (4) Unit type H1 units in the Community.

Unit type J/JR: Unit type J/JR units are two-story units containing two bedrooms, two and one-half bathrooms, living/dining area, kitchen, entry lanai, lanai and other improvements as shown on the Condominium Map. These Unit types contain a net living area of approximately 1,079 square feet, an entry lanai area of approximately 77 square feet and a lanai area of approximately 40 square feet. Unit type J/JR units are "Residential Units" as described in the Declaration. There are six (6) Unit type J units and six (6) Unit type JR units in the Community.

Unit type K/KR: Unit type K/KR units are two-story units containing two bedrooms, two and one-half bathrooms, living/dining area, kitchen, entry lanai, lanai and other improvements as shown on the Condominium Map. These Unit types contain a net living area of approximately 1,068 square feet, an entry lanai area of approximately 51 square feet and a lanai area of approximately 19 square feet. Unit type K/KR units are "Residential Units" as described in the Declaration. There are six (6) Unit type K units and six (6) Unit type KR units in the Community.

Unit type L: Unit type L units are two-story units containing two bedrooms, two and one-half bathrooms, living/dining area, kitchen, entry lanai and other improvements as shown on the Condominium Map. These Unit types contain a net living area of approximately 1,089 square feet and an entry lanai area of approximately 56 square feet. Unit type L units are "Residential Units" as described in the Declaration. There are six (6) Unit type L units in the Community.

Unit type Commercial 1: Unit type Commercial 1 units are single-story units containing an open flat floor, entry lanai and other improvements as shown on the Condominium Map. These Unit types contain a net floor area of approximately 623 square feet and an entry lanai area of approximately 62 square feet. Unit type Commercial 1 units are "Commercial Units" as described in the Declaration. There are two (2) Unit type Commercial 1 units in the Community.

Unit type Commercial 2: Unit type Commercial 2 units are single-story units containing an open flat floor, entry lanai and other improvements as shown on the Condominium Map. These Unit types contain a net floor area of approximately 571 square feet and an entry lanai area of approximately 82 square feet. Unit type Commercial 2 units are "Commercial Units" as described in the Declaration. There are two (2) Unit type Commercial 2 units in the Community.

Unit type Commercial 3: Unit type Commercial 3 units are single-story units containing an open flat floor, entry lanai and other improvements as shown on the Condominium Map. These Unit types contain a net floor area of approximately 526 square feet and an entry lanai area of approximately 55 square feet. Unit type Commercial 3 units are "Commercial Units" as described in the Declaration. There are two (2) Unit type Commercial 3 units in the Community.

Unit type Commercial 4: Unit type Commercial 4 units are single-story units containing an open flat floor, entry lanai and other improvements as shown on the Condominium Map. These Unit types contain a net floor area of approximately 571 square feet and an entry lanai area of approximately 86 square feet. Unit type Commercial 4 units are "Commercial Units" as described in the Declaration. There are two (2) Unit type Commercial 4 units in the Community.

Unit type Commercial 5: Unit type Commercial 5 units are single-story units containing an open flat floor, entry lanai and other improvements as shown on the Condominium Map. These Unit types contain a net floor area of approximately 586 square feet and an entry lanai area of

approximately 62 square feet. Unit type Commercial 5 units are "Commercial Units" as described in the Declaration. There are two (2) Unit type Commercial 5 units in the Community.

**LOCATION AND NUMBERING OF UNITS:**

Each Unit shall be designated by a numeral comprised of the Building Number ("1", "2", "3", "4", etc.) followed by the Unit Number (e.g. 01, 02, 03, etc.). The Unit numbers and locations are more fully illustrated on the Condominium Map.

**ACCESS TO COMMON ELEMENTS:**

Each Unit in the Community has access to the common elements of the Community or to a walkway leading to the common elements of the Community.

**ACCESS TO A PUBLIC STREET:**

The Community will have access to Fort Barrette Road, a public road, via Manawai, Kakala and/or Kunehi Streets, then to Kapolei Parkway.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE BUILDINGS AND OTHER IMPROVEMENTS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

**EXHIBIT B**  
Section 1.3 -- Unit Types and Sizes of Units

Unit Type	Quantity	BR/Bath	Net Living/ Floor Area (sf)	Other (lanai, garage, etc.) (sf)	Area (sf)
A	6	2/2-1/2	1,087	56 (lanai) 226 (detached garage)	1,369
A1	2	2/2-1/2	1,087	56 (lanai) 226 (detached garage)	1,369
B	8	2/2-1/2	1,203	56 (lanai) 224 (detached garage)	1,483
C	8	3/2-1/2	1,526	60 (lanai) 224 (detached garage)	1,810
C1/C1R	14	3/2-1/2	1,526	62 (lanai) 227 (detached garage)	1,815
D	8	3/3	1,870	277 (lanais & balcony) 277 (garage)	2,424
D1/D1R	14	3/3	1,870	277 (lanais & balcony) 277 (garage)	2,424
E	4	2/2	1,084	34 (balcony)	1,118*
F	4	2/2	1,023	55 (balcony)	1,078**
G	4	3/2	1,184	69 (balcony)	1,253*
G1	4	3/2	1,201	45 (balcony)	1,246*
H	4	3/2	1,232	69 (balcony)	1,301*
H1	4	3/2	1,242	45 (balcony)	1,287*
J/JR	12	2/2-1/2	1,079	117 (lanais)	1,196
K/KR	12	2/2-1/2	1,068	70 (lanais)	1,138
L	6	2/2-1/2	1,089	56 (lanai)	1,145
Commercial 1	2		623	62 (lanai)	
Commercial 2	2		571	82 (lanai)	
Commercial 3	2		526	55 (lanai)	

Unit Type	Quantity	BR/Bath	Net Living/Floor Area (sf)	Other (lanai, garage, etc.) (sf)	Area (sf)
Commercial 4	2		571	86 (lanai)	
Commercial 5	2		586	62 (lanai)	

\*Unit has an appurtenant one-car garage on the ground level, which garage is not included in the Unit Area noted.

\*\*Except for Units 813 and 913, unit has an appurtenant one-car garage on the ground level, which garage is not included in the Unit Area noted.

Note regarding Net Living/Floor Areas: Throughout the Awakea at Mehana documentation, the area of individual units is generally expressed as "net living/floor area" square footage. This measurement represents the architect's best estimate of the interior square footage of the unit as measured from the unit's perimeter walls, which are included in the unit. This measurement is based upon the plans for the construction of the unit and different architects performing the same measurement may obtain a larger or smaller result.

Units followed by an "R" represent a reverse floor plan configuration from that reflected on the condominium map.

The following classifications of Units are included in the Community:

(a) **"Residential Unit(s)"** which means those attached or detached Units that may be or are delineated on the Condominium Map and are identified in **Exhibit "D-2"** to the Declaration or an amendment to the Declaration, all Improvements and facilities constructed or reconstructed therein, and all Limited Common Elements appurtenant to such Unit(s). These Units are designated for residential use as limited by the Declaration. Residential Units are intended for use for dwelling purposes or long-term residential purposes, and shall not be used for any other purpose.

(b) **"Live-Work Unit(s)"** which means those Type D and D1/D1R two (2) story Units that may be or are delineated on the Condominium Map and are identified in **Exhibit "D-2"** to the Declaration or an amendment to the Declaration, all Improvements and facilities constructed or reconstructed therein, and all Limited Common Elements appurtenant to such Unit(s). These Units are designated for mixed residential and commercial uses as limited by the Declaration. Subject to the limitations contained at **Section H.2** of the Declaration or otherwise in the Declaration, Live-Work Units are intended for long-term residential use on a portion of the ground floor and the entire second floor of such Units and commercial purposes on a portion of the ground floor. Declarant has the reserved right to change the designation and use of any one or more or portion of the Live-Work Units and the Limited Common Elements appurtenant thereto such that they may be used solely as Residential Units, subject to the limitations specified in the Declaration. Declarant has the additional reserved right to change the designation and use of Live-Work Units and the Limited Common Elements appurtenant thereto such that they may be used wholly as one or more Commercial Units (sometimes such designated Live-Work Units are described as **"Designated Commercial Live-Work Units"**), without prejudice to the Owner of such Live-Work Unit to use the Unit as a Residential Unit or a Live-Work Unit having mixed commercial and residential uses, subject to the limitations specified in the Declaration, provided such designation by Declarant shall in no event cause the

total Net Living/Floor Area available for commercial use within the Community to exceed twenty percent (20%) of the total Net Living/Floor Area of all Units in the Community,

(c) **"Designated Commercial Live-Work Unit(s)"** means and refers to those Live-Work Units designated by Declarant for use wholly as a Commercial Unit.

(d) **"Commercial Unit(s)"** which means those Type Commercial 1, Commercial 2, Commercial 3, Commercial 4, and Commercial 5 Units that may be or are delineated on the Condominium Map and are identified in **Exhibit "D-2"** to the Declaration or an amendment to the Declaration, all Improvements and facilities constructed or reconstructed therein, and all Limited Common Elements appurtenant to such Unit(s). This term also refers to Designated Commercial Live-Work Units where appropriate to the context. As described in the Declaration, these Units shall be operated and used only for commercial purposes or uses authorized under the County's **AMX-2** zoning classification described in the LUO, subject to the limitations contained in the Declaration, and/or as approved by Declarant. Declarant has the reserved right to change the designation and use of any one or more or portions of the Commercial Units and the Limited Common Elements appurtenant thereto to any other use classification as set forth in the Declaration.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE UNIT TYPES AND SIZES OF UNITS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

**EXHIBIT C**

**Section 1.4 – Designation of Garage and/or Assignment of Parking Stalls and/or Garage  
(Awakea at Mehana)**

Capitalized terms used herein, unless otherwise defined herein, shall have the meanings given to them in the Declaration.

**DESIGNATION OF GARAGE TO UNITS:**

Certain units have an attached garage as part of the Unit. The numbers initially designated to the garages attached to such Units are described as follows:

<b>Unit No.</b>	<b>Attached Garage Parking Stall No.</b>
101	2
104	6
108	14
201	88
204	92
208	100
301	65
304	69
308	77
402	54
406	62
502	17
506	25
1201	209
1204	213
1208	221
1301	185
1304	189
1308	197
1401	170
1404	174
1408	182

**Note:** Unit Owners should refer to the Condominium Map for the designation of garage. The above list is provided as additional information only.

**PARKING STALLS AND/OR GARAGE ASSIGNMENTS:**

Each Unit shall have for its own use at least two (2) parking stalls as a limited common element as shown on the Condominium Map, provided that certain Units shall have one (1) detached garage and at least one (1) parking stall as a limited common element as shown on the Condominium Map. The initial assignment of parking stalls and/or detached garages, which is subject to change by supplemental declaration(s) or amendment(s) to the Declaration, is as follows:

Unit No.	Garage (Detached) Parking Stall No.	Driveway Parking Stall No.	Open Parking Stall No.	Open Parking Stall No.
101		1	102	103
102	3	4		
103	5		108	
104		7	111	112
105	9	8		
106	10	11		
107	13	12		
108		15	118	119
201		87	85	86
202	89	90		
203	91		153	
204		93	154	155
205	95	94		
206	96	97		
207	99	98		
208		101	156	157
301		64	140	141
302	66	67		
303	68		145	
304		70	146	147
305	72	71		
306	73	74		
307	76	75		
308		78	79	80
401	53		130	
402		55	131	132
403	57	56		
404	58	59		
405	61	60		
406		63	135	136
501	16		40	
502		18	38	39
503	20	19		
504	21	22		
505	24	23		
506		26	27	28
601			104	105
602			106	107
603			151	152
604			150	144
605			148	149
701			128	129
702			126	127
703			124	125
704			122	123

Unit No.	Garage (Detached) Parking Stall No.	Driveway Parking Stall No.	Open Parking Stall No.	Open Parking Stall No.
705			120	121
811	165		301	
812	166		300	
813			307	308
814	163		311	
815	161		303	
816	160		302	
821	168		305	
822	164		304	
823	159		310	
824	167		299	
825	158HC		309	
826	162		306	
911	271		353	
912	272		352	
913			356	357
914	269		351	
915	267		355	
916	266		354	
921	274		248	
922	270		247	
923	265		350	
924	273		246	
925	264HC		250	
926	268		249	
1001			240	241
1002			242	344
1003			243	347
1004			244	348
1005			245	349
1101			233	234
1102			230	231
1103			232	235
1104			236	237
1105			238	239
1201		208	329	330
1202	210	211		
1203	212		336	
1204		214	337	338
1205	216	215		
1206	217	218		
1207	220	219		
1208		222	223	224
1301		184	203	204
1302	186	187		
1303	188		205	
1304		190	201	202

Unit No.	Garage (Detached) Parking Stall No.	Driveway Parking Stall No.	Open Parking Stall No.	Open Parking Stall No.
1305	192	191		
1306	193	194		
1307	196	195		
1308		198	199	200
1401		169	313	314
1402	171	172		
1403	173		312	
1404		175	315	316
1405	177	176		
1406	178	179		
1407	181	180		
1408		183	317	318
1501			334	335
1502			339	340
1503			333	328
1504			326	327
1505			331	332
1601			319	320
1602			321	322
1603			323	324
1604			325	341
1605			342	343

Commercial Unit No.	Open Parking Stall No.				
801	281	282	283	35	36
802	284	285	286	37	41
803	287	288	289	42	43
804	290	291	292	44	45
805	293	295	296	46	133
901	261	262	263	47	277
902	258	259	260	48	49
903	255	256	257	29	30
904	252	253	254	31	32
905	251	297	298	33	34

PARKING STALL ASSIGNMENTS ARE SUBJECT TO CHANGE BY SUPPLEMENTAL DECLARATION(S) OR AMENDMENT(S) TO THE DECLARATION

Note: Unit Owners should refer to the Condominium Map for the assignment of detached garage. The above list is provided as additional information only.

Parking stalls may be "standard" or "compact" in size and may not be marked on the Condominium Map to reflect their respective sizes. In that regard, if marked on the Condominium Map, parking stalls marked with a "C" are compact sized parking stalls. Any parking stalls designated as a standard sized parking stall may be constructed as a compact sized parking stall and such modification is approved by the Buyer.

**DECLARANT RESERVED STALLS**

The following parking stalls are designated as Declarant Reserved Stalls:

50	81	82	83	84	113	114	134
137	142	143	225	228	229	275	276
294HC							

**PARKING STALL ASSIGNMENTS ARE SUBJECT TO CHANGE BY SUPPLEMENTAL DECLARATION(S) OR AMENDMENT(S) TO THE DECLARATION**

Declarant reserves to itself the right to amend the Declaration to establish spatial Units consisting of one or more of the foregoing parking stalls, all without the joinder or consent or notice to any Owner, Owner's mortgagees, or Person. Declarant further reserves the right to amend the Declaration in any manner to assign additional parking stalls that are reserved to the Declarant to any Unit as appurtenant Limited Common Element(s) to such Unit. Further Developer may assign such stalls to any unit and reserves all right of use and access to such stalls together with the right to sell the stalls and/or transfer the stalls to another unit. Such amendment reassignment is hereby specifically declared not to constitute a material amendment of the Declaration or, when appropriate, the Condominium Map.

**GUEST PARKING STALLS:**

The following parking stalls are initially designated as guest parking stalls for the Residential Units within the Community, subject to Declarant's right to substitute alternate guest parking stalls:

115	116	117	138HC	139	206	207	226
227	280	345	346HC				

The following parking stalls are initially designated as guest parking stalls for the Commercial Units and Live-Work Units, subject to Declarant's right to substitute alternate guest parking stalls:

109HC	110HC	278HC	279HC				
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**PARKING STALL ASSIGNMENTS ARE SUBJECT TO CHANGE BY SUPPLEMENTAL DECLARATION(S) OR AMENDMENT(S) TO THE DECLARATION**

### **Disclaimer Regarding Parking Stall Designations**

Parking stalls may be "standard" or "compact" in size and may not be marked on the Condominium Map to reflect their respective sizes. In that regard, if marked on the Condominium Map, parking stalls marked with a "C" are compact sized parking stalls. Any parking stalls designated as a standard sized parking stall may be constructed as a compact sized parking stall and such modification is approved by the Buyer and the Association. Any parking stalls designated as a compact sized parking stall may be constructed as a standard sized parking stall and such modification is approved by the Buyer or the Association. Any parking stalls designated as a covered or uncovered parking stall may be constructed contrary to its designation and such modification is approved by the Buyer or the Association. There may be parking stalls in the Community that are suited or adaptable for use by persons with disabilities. To the extent not assigned to individual Units, adaptable guest stalls (or any Developer Reserved Stall) may be retrofitted for exclusive use by disabled persons. Declarant reserves the right to transfer one or more guest parking stalls or any one or more of the Developer Reserved Stalls to a Unit, provided that if a guest parking stall or stalls are so transferred Declarant shall designate a substitute parking stall or stalls, as may be the case, therefor.

In all such cases, Declarant reserves the right to and may amend (i) the Declaration to reflect such parking stall transfers and (ii) the Condominium Map to reflect the as-built parking stall designations (compact, standard, covered, uncovered) without the joinder or consent or notice to any person.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE PARKING STALL ASSIGNMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

## EXHIBIT D

### Section 1.4 -- Reserved Right to Assign or Re-Assign Parking Stalls

Developer shall have the reserved right, to effect such modifications to the Units and common elements in the Community and/or to execute, record and deliver any amendments to the Declaration, the Condominium Map as well as the Bylaws and rules and regulations promulgated thereunder, as may be necessary or required to effect compliance by the Community, the Association, or by Developer with laws which apply to the Community, including, without limitation, the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 et seq., including any and all rules and regulations promulgated thereunder, and the Americans With Disabilities Act, as amended, 42 U.S.C. §§ 12101 et seq., including any and all rules and regulations promulgated thereunder. Without limitation, Developer may amend the Declaration (and, when appropriate, the Condominium Map) in any manner required to retrofit guest parking stalls, including adaptable or other parking stalls, so they are suited for use by persons with disabilities and to assign such stalls as appurtenant limited common elements to any one or more of the units intended for use by persons with disabilities upon substitution therefor of alternate guest parking stall(s). Such stall assignment may be made to Units, the Owners of which Developer, in its sole judgment, determines require a parking stall accessible to persons with disabilities. Such reassignment is hereby specifically declared not to constitute a material amendment of the Declaration or, when appropriate, the Condominium Map. All costs of such reassignment shall be borne as determined by Developer. Notwithstanding the foregoing, Developer also reserves the right, but does not hereby undertake any obligation, to interchange guest parking stalls and the disabled guest parking stalls to accommodate Unit Owners in need of such parking. The rights of Developer under this Section and Section E.26 of the Declaration may be assigned to the Association, without the consent or joinder of the Board.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE RESERVED RIGHT TO ASSIGN OR RE-ASSIGN PARKING STALLS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

## EXHIBIT E

### Section 1.5 -- Boundaries of the Units

Each Unit includes all walls, columns and partitions which are not load-bearing within the Unit's perimeter walls (including the garage associated with Type D, D1/D1R Units) and all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces of load bearing and perimeter walls. Each Unit shall also include doors, door frames, windows and window frames along the perimeters, the air space within the perimeter, the air space encompassed by the lanais, if any, shown on the Condominium Map to the inner decorated or finished surfaces of the perimeter walls floors and ceilings, if any of such lanais and to the interior edge of the exterior railings or other boundaries of such lanais, the entry court or area, if any, shown on the Condominium Map to the inner decorated or furnished surfaces of the perimeter walls of such entry court or area and to the interior edge of other boundaries of such entry court or area, the exterior storage areas, if any, shown on the Condominium Map, all rollers, locks, handles, tracks, and appurtenant hardware associated with all windows, exterior automobile garage doors (Unit Type D and D1/D1R Units only) doors and all sliding or swinging screen doors and all glass window screens and all fixtures originally installed in the Unit, and all pipes, plumbing (including water heaters), wires, conduits and other utility or service lines and facilities servicing only the Unit. All other portions of the walls, floors, or ceilings, are a part of the Common Element. The Units shall not include the undecorated or unfinished surfaces of the perimeter party or non-party walls, the interior load-bearing columns, girders, beams and walls, the undecorated or unfinished surfaces of the floors and ceiling surrounding each Unit, the exterior edge of the exterior railings or other exterior boundaries of the lanais, if any, shown on the Condominium Map, or any pipes, shafts, wires, conduits or other utility or service lines running through a Unit which are utilized for or serve more than one Unit, all of which are deemed Common Elements as provided in the Declaration. If any chute, flue, duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that unit is a Limited Common Element appurtenant solely to that Unit, and any portion thereof serving more than one Unit or any portion of thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE BOUNDARIES OF THE UNITS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

## EXHIBIT F

### Section 1.6 -- Permitted Alterations

1. Repair, Reconstruction, Restoration, and Replacement. Except as provided specifically to the contrary in the Declaration, repair, reconstruction, restoration and replacement of the Community or any building or other structure or unit within the Community or construction of any additional building or other structure or structural alteration or addition thereto, different in any material respect from the Condominium Map shall be undertaken by the Association or any Unit Owners only pursuant to an amendment of the Declaration. Except as expressly provided otherwise in the Declaration, any such amendment shall be duly executed by or pursuant to the affirmative vote of seventy five percent (75%) of the Unit Owners and accompanied by the written consent of the eligible holders of first mortgage (as hereinafter defined) on Units to which at least sixty seven percent (67%) of the votes of Units subject to mortgages held by such eligible holders are allocated, and in accordance with complete plans and specifications therefor first approved in writing by the Board. Promptly upon completion of such repair, reconstruction, restoration, replacement, construction, alteration or addition, the Association shall duly Record and file of record such amendment together with a complete set of floor plans of the Community as so altered, certified as built by a licensed, registered architect or professional engineer.

2. Permitted Alterations. Notwithstanding anything to the contrary contained herein but subject to (1) the Easements and other rights and licenses reserved for the benefit of other Unit Owners, (2) compliance with the Design Guidelines, and (3) such other limitations specified below, each Unit Owner has the following rights:

(a) Each Owner has the right to make any of the following changes, additions and Improvements solely within the Owner's Unit or Limited Common Element that such Owner controls, subject to the Owner's compliance with the Design Guidelines:

(i) To install, maintain, remove, and rearrange partitions and other non-load bearing structures from time to time within the Unit or Limited Common Element; provided that the Owner shall not have the right to enclose any exterior lanai or Private Yard Area;

(ii) To finish, change, or substitute any plumbing, electrical, or other fixtures attached to the ceilings, floors, or interior walls as appropriate for the use of the Unit or Limited Common Element;

(iii) To decorate, paint, repaint, wallpaper or otherwise change the appearance of any walls, floors, and ceilings of the Unit or Limited Common Element that are not readily visible from outside the Unit or Limited Common Element subject to any limitation, if any, as may be contained in the Design Guidelines;

(iv) To tile, finish, carpet, re-carpet, and install, change, or remove other flooring in the Unit or Limited Common Element which is not readily visible from outside the Unit or Limited Common Element, subject to the limitation on the installation of "hard" flooring as may be contained in the Design Guidelines; or

(v) To make such changes, additions and improvements to the Unit or Limited Common Elements to facilitate disabled person accessibility within the Unit or Limited Common Element.

(b) Except as otherwise provided in the Declaration, the Bylaws or the Design Guidelines, an Owner may make "nonmaterial structural additions" to an Owner's unit as the foregoing term is used in and subject to the provisions of Section 514B-140(c) of the Act.

(c) The Owner of two (2) Units that are separated by a Common Element that is a wall, floor, or a ceiling, or whose lanai or Limited Common Elements are separated from each other or from such Units by a Common Element that is a wall, floor, or ceiling, has the right and an easement, subject to Board approval and compliance with the Design Guidelines, to change or remove all or part of the intervening wall, floor, and/or ceiling. The Owner also has the right, subject only to Board approval and compliance with the Design Guidelines, to install doors, stairways, and other Improvements in such opening or openings in the intervening Common Element, to seal hallways or other openings, and to make other reasonable changes or additions which do not adversely affect the structural integrity of the Unit or Limited Common Element or the building in which such Unit is situated. Before terminating its common ownership of any of the adjacent Units, the Owner must restore the Common Element wall, floor, ceiling, hallway, and/or other openings to substantially the same condition as before the change or removal, unless the new Owners each agree otherwise in writing.

(d) An Owner who owns any two (2) adjacent Units separated as described in subsection (c) above and Section N.4(c) of the Declaration has the right, subject only to Board approval and compliance with the Design Guidelines: (i) to consolidate the Units into a single Unit; and (ii) to make any Common Element walls, floors or ceilings between the Units part of the Unit or its Limited Common Elements. The Common Interest of the newly created Unit will be equal to the sum of the Common Interests of the Units being consolidated.

(e) Each Owner shall be entitled to install a split air conditioning system equal or superior in quality and operational noise level as the system installed or designated by the Declarant in Units within the Community; provided such systems do not exceed the energy consumption and wattage requirements of the Declarant installed systems. Installation of such a system by the Owner(s) shall not require the consent of any other Unit Owner, but such installation must first be approved as required by and must comply with the Design Guidelines. Except as provided in Section F.2(a) of the Declaration, condenser units serving such systems shall be located in the Private Yard Area of the Unit to be served by the air conditioning system. As provided in Section F.2(b) of the Declaration Owners Units may install a split air conditioning system, components of which, including specifically condenser units and piping, may be located in the common elements of the community (solely in that general location that may be indicated on the Condominium Map by a rectangle and noted in the Site Legend for the map), and each such Owner shall have an easement over that portion of the common elements described in Section F.2(b) of the Declaration for the purpose of installing, maintaining and repairing the air conditioning system's condenser units and piping and other facilities located within the common elements.

3. Alterations or Additions. Any alterations or additions solely within a Unit, including without limitation, the addition of an exterior air conditioning unit to service the Unit that may protrude through a Common Element wall, or within a Limited Common Element appurtenant to and for the exclusive use of a Unit or more than one Unit, shall in all instances comply with the requirements of the Declaration, the Design Guidelines and the Community Rules, and shall require the written approval thereof, including the plans thereof, by the Owners of such Unit(s), by the holders of first mortgage liens affecting such Unit(s) (if the lien holder require such approval), by the appropriate agencies of the State of Hawaii and the County, if such agencies so require, the Awakea DRC, if created, and by the Board (which approval shall not be unreasonably or arbitrarily withheld or delayed), and by all other Owners thereby directly

affected (as determined in a reasonable manner by the Board as the same may be limited, directed or constrained by the Community Rules); provided, however, that the Board shall always have the right to disapprove a proposed addition or alteration that the Board reasonably determines could jeopardize the soundness or safety of the Property, impair any easement, or interfere with or deprive any non-consenting Owner of the use or enjoyment of any part of the property. Upon completion of such alterations or additions, the Unit Owner(s) directly affected shall duly Record and file of record an amendment to the Declaration together with the approved plans showing only such alterations or additions within a Unit space or within a Limited Common Element as aforesaid. Such amendment to the Declaration need only be executed by the Unit Owner(s) directly affected and their first mortgagees, as may be required. Notwithstanding the foregoing, no alteration of a Unit may be made that causes or requires a protrusion through a common element wall.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE PERMITTED ALTERATIONS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

**EXHIBIT G**  
Section 1.7 -- Common Interest

**COMMON INTERESTS FOR ALL INCREMENTS**  
(Assuming all Increments are Constructed)

Unit Type	Unit Number	Undivided Common Interest of Each Unit (Fraction)	Undivided Common Interest of Each Unit (Percentage)
A (6)	103, 203, 303, 1203, 1303, 1403	0.0072816	0.72816%
A1 (2)	401, 501	0.0072816	0.72816%
B (8)	106, 206, 306, 404, 504, 1206, 1306, 1406	0.0072816	0.72816%
C (8)	105, 205, 305, 403, 503, 1205, 1305, 1405	0.0094233	0.94233%
C1/C1R (14)	102, 107, 202, 207, 302, 307, 405, 505, 1202, 1207, 1302, 1307, 1402, 1407	0.0094233	0.94233%
D (8)	104, 204, 304, 402, 502, 1204, 1304, 1404	0.0102799	1.02799%
D1/D1R (14)	101, 108, 201, 208, 301, 308, 406, 506, 1201, 1208, 1301, 1308, 1401, 1408	0.0102799	1.02799%
E (4)	814, 824, 914, 924	0.0072816	0.72816%
F (4)	813, 823, 913, 923	0.0072816	0.72816%
G (4)	811, 821, 911, 921	0.0085666	0.85666%
G1 (4)	812, 822, 912, 922	0.0085666	0.85666%
H (4)	815, 825, 915, 925	0.0085666	0.85666%
H1 (4)	816, 826, 916, 926	0.0085666	0.85666%
J/JR (12)	601, 605, 701, 705, 1001, 1005, 1101, 1105, 1501, 1505, 1601, 1605	0.0072816	0.72816%
K/KR (12)	602, 604, 702, 704, 1002, 1004, 1102, 1104, 1502, 1504,	0.0072816	0.72816%

Unit Type	Unit Number	Undivided Common Interest of Each Unit (Fraction)	Undivided Common Interest of Each Unit (Percentage)
	1602, 1604		
L (6)	603, 703, 1003, 1103, 1503, 1603	0.0072816	0.72816%
Commercial 1 (2)	801, 901	0.0039255	0.39255%
Commercial 2 (2)	802, 902	0.0035978	0.35978%
Commercial 3 (2)	803, 903	0.0033153	0.33153%
Commercial 4 (2)	804, 904	0.0035978	0.35978%
Commercial 5 (2)	805, 905	0.0036924	0.36924%

Declarant contemplates that the Community shall proceed in no more than sixteen (16) Increments. Declarant may alter the number of units within an Increment (by increasing or decreasing the number of Units within an Increment) or construct the Community in one (1) or more Increments in Declarant's sole discretion. In constructing the Community in multiple Increments, all common profits and expenses of the Community shall be allocated to and shared among those Units for which a Developer's Certificate of Completion of Increment and a Supplemental Declaration of Annexation has been Recorded, proportionate to the common interests appurtenant to such Units within Increment 1 and such subsequent Increments.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE COMMON INTEREST CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

## EXHIBIT H

### Section 1.8 -- Recreational and Other Common Facilities

The recreational and other common facilities include mailbox(es) and/or mail centers, trash enclosures and pathways as shown on the Condominium Map, and other common elements identified in Exhibit I attached hereto. The Developer has reserved the right but is not obligated to improve such areas with other recreational facilities in the Community. Discharge from the Community into the sewer system or the drainage easement shall be subjected to all applicable laws, ordinances, rules and regulations, including but without limitation to, all Hazardous Material Laws made by any governmental authority.

Developer shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit and without being required to obtain the consent or joinder of any Unit Owner, lien holder, or other persons, to make other alterations in the Community (and to amend the Declaration and the Condominium Map accordingly) which make minor changes in any Unit in the Community or in the common elements that do not affect the physical location, design, or size of any Unit that has been sold and the conveyance thereof Recorded.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE RECREATIONAL AND OTHER COMMON FACILITIES CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

**EXHIBIT I**  
Section 1.9 -- Common Elements

The common elements of the Community shall specifically include, but are not limited to, the following:

1. The Land and those improvements to the Land, excluding the Units and Private Yard Areas, if any, but including without limitation the Community Access Drives, exterior lighting fixtures located along and/or adjacent to the Community Access Drives, the common area landscaping and similar improvements. Without limitation of the foregoing, improvements to the Land include all yards, grounds, gardens, planters, plants, landscaping, sidewalks, walkways, pathways, curbs, mailboxes, lamp, lamp posts, trash enclosures and recycle bins (which may be labeled as refuse/recycling centers), mail centers, electrical rooms, refuse facilities, elevators, trash chutes, fencing, walls, gates, security doors, barbeque areas and facilities, breezeway accesses to units (egress balconies), railings, and any recreational or exercise facilities constructed on the common elements, if any, whether or not shown on the Condominium Map.
2. All the benefits, if any, inuring to the Land or to the Community from all easements, if any, shown on the Condominium Map or listed in Exhibit "D-1" attached to the Declaration of Condominium Property Regime.
3. All structural components, such as foundations, girders, columns, beams, floor slabs, supports, main walls, load-bearing walls, floors, ceilings (except the inner or decorated surfaces of such walls, floors and ceilings), roofs, exterior stairs and stairways, landings, railings, entrances and exits of the buildings and/or Units (other than the entry courts or entry areas, garage doors, doors, door frames, windows and window frames included in the definition of a Unit, all rollers, locks, handles, tracks, and appurtenant hardware associated with all windows, doors, garage doors, to the extent applicable, and all sliding screen doors and all glass and window screens, all of which shall be the responsibility of the Unit owners), and other building appurtenances, and all other portions of the walls, floors or ceilings, are a part of the Common Elements. If any chute, flue, duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that unit is a Limited Common Element appurtenant solely to that Unit, and any portion thereof serving more than one Unit or any portion of thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.
4. All yards, grounds, gardens, planters, plants, landscaping, sidewalks, walkways, pathways, curbs, mailboxes, lamp, lamp posts, trash enclosures, mail centers, recycle bins, electrical rooms, refuse facilities and loading area.
5. All fences and walls as shown on the Condominium Map.
6. All drainage facilities or swales, pipes, shafts, wires, conduits or other utilities or service lines running through a Unit, or Private Yard Area, if any, which are utilized for or serve more than one Unit, or Private Yard Area, if any, or other features of the Community.
7. The loading zones as shown on the Condominium Map.
8. All guest and accessible guest parking stalls and parking areas, which are shown on the Condominium Map, subject to Declarant's right to substitute alternate guest parking stalls. The use of guest parking stall(s), inclusive of accessible guest parking stalls, shall be governed by

the applicable rules and regulations set forth in the Community Rules; but excluding therefrom all non-assigned parking stalls designated as Declarant Reserved Stalls, which may be assigned by Declarant to any one or more Units by amendment(s) to the Declaration.

The parking stalls initially designated as guest parking stalls for the Residential Units within the Community are described in Exhibit C.

The parking stalls initially designated as guest parking stalls for the Commercial Units and Live-Work Units are described in Exhibit C.

9. Any and all apparatus and installations of common use by more than one (1) Unit or Limited Common Element appurtenant thereto, and all other parts of the Community necessary or convenient to its existence, maintenance and safety, or normally in common use.

10. All ducts, electrical equipment, transformers, wiring, pipes and other central and appurtenant transmission facilities and installations over, under and across the Community or individual Private Yard Areas, if any shown on the Condominium Map, which are utilized by or serve more than one Unit or for services such as power, light, water, gas, sewer, drainage, telephone and radio and television signal distribution, if any.

11. All areas, rooms, spaces, structures, housings, chutes, shafts or facilities of the Community within or outside of the buildings, which are for common use or which serve more than one Unit, such as electrical, maintenance, service, security, machine, mechanical and equipment rooms and the equipment, machinery and facilities therein.

12. All other parts of the Community not included in the definition of a Unit.

13. The Entry Sign Monument identifying the Community, which may be covered by a grant of easement in favor of the Association.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE COMMON ELEMENTS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

**EXHIBIT J**  
Section 1.10 -- Limited Common Elements

A. Each Unit shall have appurtenant to the Unit easements for the exclusive use of certain limited common elements as follows:

1. Private Yard Area:

Certain units may include Private Yard Areas. This land area appurtenant to each Unit, as described in the Declaration and if shown on the Condominium Map, and bearing the same Private Yard Area number as the unit number assigned to the Unit, is a limited common element. Private Yard Areas are not legally subdivided lots. Private Yard Areas include the land beneath the Unit bearing the same number as the Private Yard Area, the yard area in front of, to the rear and the sides of the Unit as demarked (at the sole election of Developer) by (1) fencing of the yard area or rear yard and/or front yard areas of the Unit; (2) appropriate physical monuments at the corners of the Private Yard Area and/or locations shown on the Condominium Map; or (3) by metes and bounds noted on the Condominium Map or contained in a Supplemental Declaration.

2. Partially Included in Unit:

If any chute, flue, duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of a Unit (including all facilities, piping, condenser units or the other components of the air conditioning system servicing the Unit), any portion thereof serving only that unit is a Limited Common Element appurtenant solely to that Unit, and any portion thereof serving more than one Unit or any portion of thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements. Any shutters, awnings, window boxes, doorsteps, stoops, air conditioning units, heat exchange units (and singular facilities serving the same) and all exterior doors (including exterior automobile garage doors) and windows or other fixtures designed to serve a single unit, but are located outside the Unit's boundaries, are Limited Common Elements appurtenant exclusively to that Unit.

3. Air Conditioning Facilities:

Any air conditioning facilities installed outside Private Yard Areas.

4. Parking Stalls:

i. Parking Stalls and/or Garage Assignments:

Each Unit shall have for its own use at least two (2) parking stalls as a limited common element as shown on the Condominium Map, provided that certain Units shall have one (1) detached garage and at least one (1) parking stall as a limited common element as shown on the Condominium Map. The initial assignment of parking stalls and/or detached garages, which is subject to change by supplemental declaration(s) or amendment(s) to the Declaration, is described in Exhibit C.

B. Without limitation of designations specified in the Declaration and as determined appropriate by the Board of Directors of the Association, certain parts of the Common Elements, herein referred to as the "Limited Common Elements" are hereby designated and set aside for the use of certain Units, and such Units shall have appurtenant easements for the use of such

Limited Common Elements, subject to the limitations and rights reserved to others specified in the Declaration, as follows:

1. Building 8:

a. The elevator and corresponding elevator lobbies, lobby areas and corridors, trash rooms, stairway and mailboxes located within Building 8 shall be for the use of all Units located in Building 8.

b. The restrooms and storage room located on the 1<sup>st</sup> Floor of Building 8 shall be for the use of the Commercial Units located in Building 8.

2. Building 9:

a. The elevator and corresponding elevator lobbies, lobby areas and corridors, trash rooms, stairway and mailboxes located within Building 9 shall be for the use of all Units located in Building 9.

b. The restrooms and storage room located on the 1<sup>st</sup> Floor of Building 9 shall be for the use of the Commercial Units located in Building 9.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE LIMITED COMMON ELEMENTS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL.

## EXHIBIT K

### Section 1.11 -- Special Use Restrictions

Subject to the rights reserved to Declarant in the Community Documents, the Community and each of the Units are intended for and shall be restricted to the following purposes and uses, which, together with any other restrictions contained in the Community Documents, are intended and shall be deemed to be cumulative.

#### 1. Residential Units.

(a) Except for Home-Based Small Businesses (defined below) otherwise or as provided in the Declaration, and subject to the limitations specified in the Declaration, the Residential Units shall at all times be occupied and used only for residential purposes in accordance with applicable laws, the Declaration, and the Bylaws, and for no other purposes. Without limiting the foregoing, no Unit shall be used or caused, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such non-residential purpose.

(b) "Home-Based Small Business" shall mean a business which: (i) is operated solely within the Residential Unit incidental to the use of the Unit for residential purposes; (ii) is limited to arts and crafts, the rendition of professional services not permitting client visitation, or other similar activities; (iii) is operated by the Owner of the Residential Unit (or a member of such Owner's family) whose principal residence is the Residential Unit; (iv) is permitted by, and is at all times in compliance with, all applicable laws, the Declaration, the Bylaws, and the Community Rules; (v) maintains at all times, any licenses and permits necessary for such business as required by law; (vi) maintains a policy or policies of public liability insurance in an amount which is reasonable for such business and any additional insurance as determined by the Association, in each case naming the Association as an additional insured; (vii) does not result in (A) the violation of any of the provisions of the Declaration, (B) any unreasonable increase in the flow of traffic within the Community, (C) any odor, noise, or vibration outside of the Residential Unit, or (D) parking problems within the Community; and (vi) excludes in all cases manufacturing, kilns, hammering and sawing. No Owner, lessee, tenant, or other occupant of a Residential Unit shall regularly bring clients, customers, or other business invitees onto the Community for business purposes.

#### 2. Live-Work Units.

(a) Subject to the limitations specified in this Section and Section H.2 of the Declaration, Live-Work Units inclusive of the Limited Common Elements appurtenant to such Units, shall at all times be occupied and used (i) only for residential purposes, in which event the limitations on use of Residential Units shall be applicable to the Live-Work Unit, (ii) as a mixture of residential and commercial purposes in accordance with applicable laws, the Declaration and the Bylaws, or (iii) as a Designated Commercial Live-Work Unit, and for no other purposes. Except as denominated by Declarant by Supplemental Declaration designating a Live-Work Unit as a Designated Commercial Live-Work Unit, the interior living area of the Unit consisting of (1) the ground floor bathroom, storage area, the interior stairwell serving the second floor of Live-Work Units, and the second floor of such Units shall be used solely for residential purposes, subject to the use limitations imposed on Residential Units, and (2) the ground floor of Live-Work Units inclusive of ground floor bedroom and flex space shown on the Condominium Map, but excluding the ground floor bathroom and storage area, which are intended to serve the residential portion of the Unit, may be used for commercial or residential purposes. If such

commercial use portion of a Live-Work Unit is used for commercial purposes, such portion of the Unit shall be operated and used only for those commercial purposes or uses authorized under the County's AMX-2 zoning classification described in the LUO, without the need to secure a conditional use permit - Major, subject to the limitations contained in the Declaration and/or approved by Declarant. All AMX-2 uses requiring a major conditional use permit or plan review use are specifically prohibited in Live-Work Units. No commercial use of a Live-Work Unit shall be undertaken or permitted unless first approved in writing by Declarant or the Commercial Use Committee.

(b) Notwithstanding the specific examples of permitted uses set out in the Permitted Commercial Use Exhibit and subject to the right of the Declarant to prohibit a use, the Commercial Use Committee may authorize other uses, using reasonable discretion, so long as such other uses do not detract from the overall image of the Community, and are not otherwise precluded by law. The Commercial Use Committee will consider the effect on Live-Work Units in the Community, and the Commercial Use Committee will not approve a use on Live-Work Unit that has a materially adverse impact on any other Unit in the Community or on the Property (as defined in the Master Declaration). The Commercial Use Committee may fairly and reasonably define the Permitted Commercial Uses, from time to time, more clearly than the guidelines outlined in the Declaration. The Commercial Use Committee may establish special Rules and Regulations to apply specifically to the Live-Work Units. Moreover, the Commercial Use Committee may adopt Rules and Regulations establishing procedures allowing Owners and Persons under contract to purchase a Live-Work Unit in the Community to apply to the Board for written authorization of a proposed business use.

3. Commercial Units. Subject to the limitations specified in this Section and Section H.3 of the Declaration, Commercial Units, inclusive of the Limited Common Elements appurtenant to such Unit, shall at all times be occupied and used (i) only for commercial purposes, (ii) only for residential purposes, or (iii) a mixture of residential and commercial purposes in accordance with applicable laws, the Declaration and the Bylaws, and for no other purposes. If a Commercial Unit is used solely for residential purposes, the use of such Unit shall be subject to the limitations on use applicable to Residential Units. Conversion of use of the Commercial Unit from residential use to commercial use or mixed use shall require the advance approval of the Declarant or the Commercial Use Committee. If a Commercial Unit is used for mixed residential and commercial purposes, the use of such Unit shall be subject to the limitations on use applicable to Live-Work Units. Conversion of the use of the Commercial Unit from mixed use to commercial use shall require the advance approval of the Declaration or the Commercial Use Committee. Commercial Units used solely for commercial purposes shall be operated and used only for commercial purposes or uses authorized under the County's AMX-2 zoning classification described in the LUO, without the need to secure a conditional use permit - Major, subject to the limitations contained in the Declaration and/or approved by Declarant. All AMX-2 uses requiring a major conditional use permit or plan review use are specifically prohibited. No commercial use of a Commercial Unit shall be undertaken or permitted unless first approved in writing by Declarant or the Commercial Use Committee. The Owner of a Commercial Unit shall have the absolute right to rent or lease all or any portion or portions of such Commercial Unit in connection with such commercial operations or use for any length of time and upon such terms and conditions as such Owner or Owners shall determine for a term not less than three (3) months, and to retain the revenues and rents generated from operations, provided, however, that, subject to Section R.1 of the Declaration, any subdivision or partition of such Commercial Unit shall be strictly prohibited. Declarant reserves the right to change the permitted uses that may be undertaken with a Commercial Unit, to make alterations to the Commercial Unit and the Limited Common Elements appurtenant thereto and to change the use of the Limited Common Elements, as set forth in, among other provisions, the Declaration. The

Commercial Unit shall have an appurtenant easement pursuant to which the Owner's representatives, vendors, licensees, and invitees have the right, for purposes of the business conducted in the Commercial Unit, or the Limited Common Elements appurtenant thereto, to do the following things:

(a) To enter the Community using the Common Elements intended for access to and from any nearby roads or streets;

(b) To make deliveries using any delivery area located within the Commercial Unit's Limited Common Element designated for such commercial delivery area; and

(c) To use the Common Elements for ingress and egress as may be reasonably necessary or convenient in connection with the ordinary course of business operations in the Commercial Unit and its appurtenant Limited Common Elements.

#### 4. Owners' Transfer Rights.

(a) No Timeshares. Subject to any rights reserved to Declarant in the Declaration, no Unit or any interest therein shall be sold, transferred, conveyed, leased, occupied, rented, or used for or in connection with any timesharing purpose or under any timesharing plan, arrangement, or program, including, without limitation, any so-called "vacation license," "travel club membership," "exchange program" or "time-interval ownership" arrangement. The term "timesharing" or "timeshare" as used in this Section and Section H of the Declaration shall be deemed to include, but is not limited to, any plan, program, or arrangement under which the right to use, occupy, own, or possess a Unit rotates among various persons on a periodically recurring basis according to a fixed or floating interval or period of time, whether by way of deed, lease, association, or club membership, license, rental, or use agreement, co tenancy agreement, partnership, or otherwise.

(b) Owners' Right to Sell, Lease and Transfer. Subject to Section 4(a) above and Section H.4(a) of the Declaration, and the limitations contained in the Declaration, the Unit Owners shall have the absolute right to sell, lease, rent, or otherwise transfer their respective Units subject to all provisions of the Act and the Community Documents. Without limitation of the foregoing, Declarant shall have the absolute right to rent Units owned by Declarant. No Unit may be leased or rented for an initial term of less than one hundred eighty (180) days (or such longer period as may be required by ordinance of the County to avoid classification of the Unit as a "transient vacation unit"), it being understood that this Section and Section H of the Declaration shall not apply to Declarant. Also, except for rights reserved to Declarant in the Declaration, no Owner may rent any Residential Unit or Live-Work Unit in any manner by which the occupants of the Unit are provided customary hotel or similar services, such as room service, maid service, laundry or linen service or bell service. Any lease or rental agreement of a Unit shall provide that it shall be subject in all respects to the provisions of the Community Documents and that the failure of the lessee or tenant to comply with the terms of the Community Documents shall be a default under the lease or rental agreement. Any Unit Owner leasing or renting a Unit shall provide the Association with a copy of such lease or rental agreement as soon as possible upon execution. If an Owner of a Unit desires to make an arrangement for rental or occupancy of his Unit, then the Owner must make such arrangement without the involvement or participation of Declarant. **DECLARANT HAS NOT AUTHORIZED ANY AGENT, EMPLOYEE, SALESPERSON OR BROKER TO MAKE ANY REPRESENTATIONS AS TO RENTAL OR OTHER INCOME FROM ANY UNIT OR AS TO ANY OTHER ECONOMIC BENEFIT, INCLUDING POSSIBLE ADVANTAGES FROM THE OWNERSHIP OF A UNIT UNDER FEDERAL OR STATE TAX LAWS, TO BE DERIVED FROM**

THE PURCHASE OF A RESIDENTIAL UNIT, LIVE-WORK UNIT, OR COMMERCIAL UNIT IN THE COMMUNITY.

5. Use of Common Elements. Subject to the rights reserved by Declarant elsewhere in the Declaration or in the Bylaws or other Community Documents and subject also to the exclusive or limited use of the Limited Common Elements that may be specified in the Declaration, each Unit Owner may use the Common Elements in accordance with the purposes for which they were intended without hindering or encroaching upon the lawful rights of the other Unit Owners, subject to the rights of the Board of Directors:

(a) To change the use of the Common Elements upon the approval of seventy five percent (75%) of the Unit Owners, provided that the change does not adversely affect (1) Declarant's rights and interests in the Common Elements or the Limited Common Elements or (2) the Easements of any Unit Owner, including Declarant, in a Limited Common Element, without first having secured the permission of the adversely affected Owner;

(b) On behalf of the Association, to lease or otherwise use for the benefit of the Association, including, without limitation, to grant easements and enter into licenses respecting, those Common Elements that, in accordance with Section 514B-38(5) of the Act, the Board determines are not actually used by any Unit Owners for a purpose permitted in the Declaration so long as it does not adversely affect Declarant's rights and interests in the Common Elements, provided that, unless the approval of sixty-seventy (67%) of the Owners is obtained, such lease shall not have a term of more than five (5) years and shall contain a provision that the lease or agreement for use may be terminated by either party thereto on not more than sixty (60) days' written notice; provided, however, that the foregoing approval requirement shall not apply to any leases, licenses, or other agreements entered into for the purposes authorized by Section 514B-140(d) of the Act; and

(c) Provided it does not adversely affect Declarant's rights and interests in the Common Elements or Limited Common Elements, to lease or otherwise use for the benefit of the Association those Common Elements and elements that, in accordance with Section 514B-38(6) of the Act, the Board determines are actually used by one or more Unit Owners for a purpose permitted in the Declaration upon obtaining the approval of sixty-seven percent (67%) of the Owners, including all directly affected Owners that the Board reasonably determines actually use such Common Elements, and the Owners' Mortgagees, provided that the foregoing approval requirement shall not apply to any leases, licenses, or other agreements entered into for the purposes authorized by Section 514B-140(d) of the Act.

(d) To enact, amend and repeal rules and regulations reasonably restricting and regulating use of the Common Elements, provided that such rules and regulations shall be enacted, amended or repealed in accordance with and shall be consistent with the terms of the Community Documents.

6. Use of Unit-Generally. A Unit Owner shall not use his or her Unit and/or any appurtenant Limited Common Element for any purpose which will injure the reputation of the Community or suffer anything to be done or kept in his or her Unit or elsewhere in the Community which will (a) jeopardize the soundness of any building in the Community, (b) create a nuisance or interfere with or unreasonably disturb the rights of other Owners and occupants, (c) increase the rate of fire insurance on any structure or the contents of any structure, or (d) reduce the value of the Community or any structure in the Community.

7. Signs, etc. The Owner of any Unit will not, without the prior written consent of the Board, display any sign or place any other thing in or upon any doors, windows, walls or other portions of the Unit or the Common Elements so as to be visible from the exterior. This restriction shall not apply to signs identifying the business of a Commercial Unit or conducted in the commercial use portion of a Live-Work Unit, provided such sign complies with the Signage Guidelines and is first approved in writing by (i) Declarant or (ii) the Commercial Use Committee. This restriction shall not apply to any signs displayed by Declarant for any purpose.

8. Restrictions and Responsibility Regarding Use of Units.

(a) Special Restrictions Applicable to All Units. Without limiting the application of any other provision of the Declaration, no use or operation shall be made, conducted, or permitted on or with respect to all or any part of the Community, which use or operation violates applicable laws or the provisions of the Declaration. No Unit shall be used for any of the following activities or purposes:

(i) Any distillation or refinery facility;

(ii) Any dumping of garbage or refuse, except in places designated for disposal by the Board;

(iii) Except with the express written consent of Declarant, any meeting place or place of public assembly;

(iv) Any pool hall, game arcade, betting facility (including off-track betting) or video or game arcade;

(v) Any indecent or pornographic uses, massage parlor (which for purposes of this prohibition shall not be defined to include the operation of a beauty parlor or day spa in which massage therapies are offered as an ancillary services to customers), for the sale of nude, semi-nude, erotic or pornographic adult entertainment, books, magazines, videos and other similar products, peepshow store, escort service or any other similar store or club; and any business devoted to sale of articles and merchandise normally used or associated with illegal or unlawful activities, including, without limitation, the sale of paraphernalia used in connection with marijuana, cocaine, or other controlled drugs or substances;

(vi) Any gymnasium or martial arts studio;

(vii) Except with the express written consent of Declarant or the Commercial Use Committee, any dance, spa, fitness or exercise studio;

(viii) Any tattoo parlors or body piercing establishments;

(ix) Any laundromat (provided, however that nothing herein shall prohibit the operation of a dry cleaning business in a Commercial Use Unit which does not include a self-service laundromat provided such store is a "drop off" for dry cleaning and actual dry cleaning is conducted at a site outside the Community), secondhand surplus store, bankruptcy sale;

(x) Except with the express written consent of Declarant, any discount or thrift stores;

- (xi) Churches, school or political organizations;
- (xii) Retail or wholesale sales or manufacturing, excluding those uses specifically permitted on the permitted use listed in Permitted Commercial Use Exhibit to the Declaration;
- (xiii) Kennels or other animal care facilities;
- (xiv) Storage or refining of hazardous materials and petroleum or other products;
- (xv) Sales, repair or maintenance of vehicles, including automobiles, boats, motorcycles, aircraft, trucks or recreation vehicles, or other motorized equipment, provided that light maintenance of commercial vehicles shall be allowed so long as such maintenance is conducted entirely within the interior of a garage on Live-Work Unit;
- (xvi) Other uses (other than Permitted Uses) that the Commercial Use Committee, or the Board reasonably determines would detract from the overall image of the Community, or which might adversely affect the value of individual Units within the Community; or
- (xvii) Real estate sales, property management, or property rental business, concierge service, except with the express written permission of Declarant.

Additionally, no Owner or lessee shall employ an advertising medium which can be heard or experienced outside of the Unit, including, without limiting the generality of the foregoing, flashing lights, searchlights, loudspeakers, phonographs, compact disc players, radios, or television. No Owner or lessee shall distribute, or cause to be distributed, any handbills or other advertising device in the Common Elements or Property or on the public sidewalks, walkways or streets adjacent to the Community.

(b) Specific Use Restrictions for the Commercial Units, Designated Commercial Live-Work Units and Live-Work Units Used for Commercial Purposes. Notwithstanding anything contained herein to the contrary, Commercial Units, any Designated Commercial Live-Work Unit used for commercial purposes (herein collectively the "Commercial Use Unit(s)") and the Owner thereof, shall be subject to the following restrictions as to the use of the Commercial Use Unit:

(i) With the exception of Declarant, the Owner of the Commercial Use Unit shall not use or occupy such Unit, or permit the use or occupancy of such Unit, for any purpose or in any manner which:

(A) Engages in a commercial liquor store use for off premise consumption which devotes more than twenty-five percent (25%) of the entire display space of the Unit to the display of intoxicants, exclusive of wine and beer (which intoxicants must be only first class, high grade spirits), or sells intoxicants (except wine, beer, and items used in cooking) in containers holding less than one-fifth of a gallon;

(B) Operates a cinema/movie theater, bowling alley, skating rink, video game room, amusement gallery or amusement arcade, pool hall, funeral home or store selling caskets, facility for industrial or manufacturing uses, pet grooming or veterinary medicine;

(C) Operates a real estate sales, property management, or property rental business, concierge service, or a business for the on-site sales of Units, except with the express written permission of Declarant;

(D) Operates a drive-in or drive-thru restaurant; or

(E) Is not one of those uses specified as permitted AMX-2 zoning uses for the Unit use classification (Commercial Unit or Live-Work Unit) specified in the Permitted Commercial Use Exhibit and has not obtained prior approval of such proposed use of the Commercial Use Committee.

(ii) The Owner of the Commercial Use Unit shall, at such Owner's expense, obtain and maintain at all times, all licenses and permits necessary for such Owner or such Owner's tenants', lessees', or occupants' operations from the Commercial Use Unit as appropriate and shall post or display in a prominent place in the Commercial Use Unit such permits and/or notices as required by law.

(iii) The Owner of the Commercial Use Unit agrees to conduct its business, and to cause their tenants, licensees and occupants to conduct their operations, at all times in a reputable manner, maintaining at all times a full staff of experienced and qualified employees for efficient operation in a proper, workmanlike and dignified manner.

(iv) The Owner of the Commercial Use Unit shall not operate or be open for business between the hours of 10:00 p.m. and 6:00 a.m., without prior written consent from the Commercial Use Committee. Deliveries to Commercial Use Units are restricted to between the hours of 8:00 a.m. and 5:00 p.m.; provided, however, alternate delivery schedules may be approved by the Commercial Use Committee, in its sole discretion, for Commercial Units. In all Commercial Use Units, the street front entrance shall be used as the principal means of ingress and egress for commercial invitees and customers of any business conducted in a Commercial Use Unit and no approved sign within a Commercial Use Unit shall direct invitees and customers to any rear of alleyway access to the Unit. Rear or alleyway access to any Commercial Use Unit shall not be used as the primary access to a Commercial Use Unit.

(v) The Owner of the Commercial Use Unit shall not have the right to place canopies, signs, pictures, advertisements or notices inside the Commercial Use Unit visible from the exterior of the Unit or outside the Unit (or within any Private Yard Area) without the prior written approval of the Commercial Use Committee, and the DRC, where appropriate. The Signage Guidelines and Commercial Use Guidelines reserve to the Board and the foregoing committees the right to approve the design, location and size of any and all canopies, signs, pictures, advertisements or notices placed inside the Unit that are visible from any street area or any Common Element. Notwithstanding the foregoing, signs containing any strobe lights, moving parts or day-glow colors shall be strictly prohibited.

(vi) The Mehana at Kapolei Commercial Use Guidelines were adopted by the Mehana at Kapolei Commercial Use Committee on September 20, 2013. The Commercial Use Guidelines contain certain restrictions on commercial uses within the Community, and require prior written approval of any commercial uses of a Unit from the Commercial Use Committee. Copies of the Commercial Use Guidelines are available at the Developer's sales office.

(c) Commercial Invitees and Lessees; Insurance. The Owner of the

Commercial Use Unit shall be responsible for compliance by such Owner's commercial invitees and lessees, and such Owner's lessees' invitees, with the provisions of the Declaration, the Bylaws, and any rules made by the Board. The Owner of the Commercial Use Unit and such Owner's lessee shall maintain a policy or policies of public liability insurance in an amount which is reasonable for the use of such Unit, naming the Association as an additional insured, and shall provide a certificate evidencing adequate coverage annually upon renewal to the Board. The Commercial Use Committee's approval of any commercial use within a Commercial Use Unit may be conditioned on additional insurance requirements. Moreover, the Board may, pursuant to power reserved to it hereunder, specially assess Commercial Use Units for among other matters, increases in costs of insurance for the Community attributable to commercial activity in the Commercial Use Units.

(d) Utility Usage.

(i) Declarant or the Association may install electrical or other utility service submeters as a limited common expense to measure the use of such service by the Commercial Use Unit, including, without limitation, gas service and/or water submeters or flow meters relating to the chilled water system in the Commercial Use Unit to measure water usage for the Unit. In such case, the Association will be responsible for the payment of this bill to the service provider billings, and each Unit Owner will be responsible for paying its share of such utility service bill, plus reasonable service charges, to the Association as a limited common element expense. If the Owner of the Commercial Use Unit fails to pay any amounts when due, such Owner will be responsible for any penalties or delinquent amounts levied by the service provider. If the Owner or a Commercial Use Unit fails to reimburse the Association, the Association will be entitled to all remedies available for nonpayment of limited common element assessments under the Declaration or the Act and, without limitation of the foregoing, may impose a special assessment as provided in the Declaration, may enter the Commercial Use Unit to shut off the water, electrical or other utility service to the defaulting Owner's Unit, or may pursue any other remedies as provided in the Declaration. The Commercial Use Unit Owner shall also have the obligation to maintain, repair, and replace the submeter providing service to such Owner's Unit. If the Owner of the Commercial Use Unit fails to maintain such meters or submeters, the Association shall be entitled to maintain, repair, and replace the meter and charge the cost thereof to such Owner or pursue any other remedies provided under the Declaration.

(ii) If any Commercial Use Unit Owner installs any electrical equipment which overloads the electrical lines in or to the Property or the improvements to the Property, Owner shall, at such Owner's own expense, make whatever changes are necessary to correct the situation and to comply with the requirements of the insurance underwriters and all governmental authorities having jurisdiction over such matter as directed by the Declarant, the Commercial Use Committee, or the Board.

(e) Special Restrictions on the Commercial Use of Live-Work Units. Notwithstanding anything to the contrary contained in the Declaration, and subject to the limitations on use of the various floors and portions of floors of the Live-Work Unit(s) described in Section H.2(a) of the Declaration (limiting the area within which commercial uses may be undertaken), Live-Work Units used for a mixture of residential and commercial purposes that are not designated by Supplemental Declaration as Designated Commercial Live-Work Units, and the Owners thereof, shall be subject to the following restrictions on use:

(i) Any approved commercial operation undertaken in the commercial use portion of the Live-Work Unit shall be operated by the Owner of the Live-Work Unit.

The Owner of the Live-Work Unit may not employ more employees in connection with such approved commercial operation than the most restrictive employee requirement of any governmental or quasi-governmental loan guaranty program (such as FNMA, FHA, VA or FHLMC).

(iii) The Owner of the Live-Work Unit may not rent to a third party the commercial use portion of the Live-Work Unit.

(iv) The Owner of the Live-Work Unit must maintain the direct connection between the residential use portion of the unit and the commercial use portion of the unit and may not alter the interior of the Unit in any manner that impedes the direct connection between those portions of the Live-Work Unit.

(v) No more than twenty-five percent (25%) of the total floor area of a Live-Work Unit may be used for non-residential/commercial purposes.

(vi) The portion of the Live-Work Unit used for commercial purposes shall be subject to each and all of those limitations on use applicable to Commercial Use Units described in this Section and Section H.8 of the Declaration or otherwise in the Declaration.

9. Window Coverings. All window coverings shall be a shade of color that are specified in the Design Guidelines, harmonious with and not conflicting with the color scheme of the exterior wall surface of a Unit and shall be subject at all times to the review and approval of the DRC. Window tinting and window coverings, which differ from that described above shall be subject to the approval of the Board and/ or DRC, as appropriate. Window coverings that conflict with the color scheme of the exterior wall surface as reasonably determined by the Board must be replaced with compliant window coverings of directed by the Board or DRC and/or the Awakea DRC, as appropriate.

10. Animals. No livestock, poultry, or other animals whatsoever shall be allowed or kept in or on any part of the Community, except that dogs, cats, or other common household pets, in a reasonable number as established by the Community Rules, may be kept by Owners and Occupants in their respective Units. Pets shall not be allowed on any common elements of the Community except on a leash or when carried. Owners and Occupants shall be responsible for the immediate and proper removal and disposal of all fecal matter of pets while the pets (whether on a leash or carried) are on any common elements of the Community. The Owner or Occupant of any Unit in which a pet is to be kept pursuant to these rules shall register the pet with the Board or the Managing Agent prior to or immediately upon bringing such pet onto the Community. Pets shall not be kept, bred or used for any commercial purpose. Any personal injury or property damage to the structures, grounds, flooring, walls, trim, finish, tile, carpeting, stairs or other portion of the Community caused by a pet will be the full responsibility of the pet owner and the Owner of the Unit in which the pet is kept. Owners and Occupants shall be responsible for the immediate and proper removal and disposal of all fecal matter of pets kept in their Units.

11. No Mechanics' Liens. No Owner shall cause or permit any mechanic's lien to be filed against any portion of the Common Elements or another Unit for labor or materials alleged to have been furnished or delivered to such Owner's Unit or for the benefit of such Owner, and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to the Owner from the Board. If any Owner fails to remove such mechanic's lien, the Board may discharge the lien and charge the Owner for such cost of discharge.

12. Offensive Conduct; Nuisances. No noxious or offensive activities shall be conducted within the Community unless authorized in advance by Declarant in writing, provided that the operation of a restaurant (other than a drive-in or drive-thru restaurant) within a Commercial Unit is hereby expressly authorized, and provided for that such eatery establishment shall not offer live entertainment except on Friday or Saturday nights between the hours of 6:00 pm and 10:00 pm or on Sunday between the hours of 11:00 a.m. and 2:00 p.m. (all in compliance with the law); provided, however, alternate hours of live entertainment may be authorized by the Commercial Use Committee in its sole discretion. Nothing shall be done on or within the Community that may be or may become an annoyance or nuisance to the residents of the Community, or that in any way interferes with the quiet enjoyment of occupants of Units or which may create a nuisance or injure the reputation of any of the buildings. No odorous matters shall be emitted upon or about the Community in such quantity as to be readily detectable outside the physical boundaries of the space within which the odor was generated. Accordingly, fume filters must be used within either Commercial Unit where any cooking is permitted by the Commercial Use Committee. Unless otherwise permitted by the Community Rules, no Residential Unit Owner shall serve food or beverages, cook, barbecue, or engage in similar activities, except within such Owner's Unit and except within the Limited Common Elements appurtenant to such Owner's Unit or Common Elements designated for such purpose by the Association, if any, subject to the provisions of the Community Rules.

13. Noise and Vibration. Unless authorized in advance by Declarant, no person shall produce, or allow to be produced, noise or building shaking vibration at such levels as will be offensive to other Owners.

14. Outside Drying and Laundering. No exterior clothes lines or other outside clothes drying or airing facilities shall be permitted on any part of the Common Elements or lanais so as to be visible from other Units or Common Elements of the Community.

15. Toxic or Noxious Matter. No person shall discharge into the Community's sewer system storm drain any toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety or welfare, violate any law, subject any Owner, Declarant, or the Association to liability under state and federal law for any clean up, or cause injury or damage to neighboring property or business elsewhere on the Mehana Community.

16. Lanais. Without limiting the generality of any other provision of the Declaration, the following provisions shall apply to lanais:

(a) Use of Lanais in Residential Units. Residential Unit Lanais shall be used only as outdoor living areas containing patio furniture and other similar outdoor furnishings that comply with the standards governing the appearance of such items as set forth in the Community Rules. Furnishings shall be equipped with protective leg caps or other devices to prevent damage to the floor of the lanais. No Improvement shall be nailed, bolted, or otherwise attached to the floor, walls, or any other portion of the lanais. Any plants permitted in accordance with the Community Rules must be placed on lanais must have sufficiently large receptacles to contain all drainage from such plants, and must not be allowed to collect condensates or moisture between the receptacles and the floor of the lanais.

(b) Use of Commercial Unit Lanais and Lanais Adjoining the Commercial Use Portion of Live-Work Units. Lanais of Commercial Units and the Lanais adjoining the commercial use portion of Live-Work Units shall be used only as permitted by the Approved Commercial Use Plan approved by the Commercial Use Committee.

(c) Limitations on Lanai Use-Generally. No Owner shall change or alter the surface or exterior of any lanais without the consent of the Board. Use of all lanais shall be subject to the provisions in the Community Rules.

17. Parking Stalls and Vehicular Restrictions.

(a) Parking Stalls for Disabled Persons. Certain Parking Stalls may be designated for use by disabled persons ("Disabled Parking Stalls") and will be designated as such on the Condominium Map. Such Disabled Parking Stalls may be assigned by Declarant to the Owners of particular Units upon the initial sale of such Units or may be designated for use by the Owner of the Commercial Unit and such Owner's invitees, jointly. Declarant shall, upon assigning a Disabled Parking Stall to an Owner, designate such assignment in the records of the Association and such Disabled Parking Stalls shall constitute Limited Common Elements appurtenant to the Unit to which the stall is assigned. If any Disabled Parking Stalls remain unassigned after the sale of all the Units in the Community, the Board shall have the right to assign and manage such spaces unless the same have reserved to Declarant in the Declaration. The Owners who are assigned Disabled Parking Stalls shall be subject to the rights of the Board to re assign such parking Stalls. Evidence of disabled status shall be by distinguishing license plate or placard issued by the Hawaii Department of Motor Vehicles. Except for Declarant Reserved Parking Stalls, the Board shall have the authority and be responsible for coordinating the assignment of parking stalls pursuant to this Section and Section H of the Declaration and shall adopt rules and regulations with respect thereto, including the procedure to be followed should an Owner or occupant become disabled and wish to use a Disabled Parking Stall, forms and methods of notice to be given to the Board and Owner, and procedures for review of the required evidence of disabled status. The Board shall maintain appropriate records of such assignment, including a copy of the evidence provided. In no event shall the Declarant or the Association be held liable if the Declarant or the Association is unable to assign a Disabled Parking Stall to a disabled Owner because all designated Disabled Parking Stalls have previously been assigned to other disabled Owners.

(b) Authorized Vehicles. The following vehicles are "Authorized Vehicles": motorized land vehicles designed and used primarily for non-commercial passenger transport, such as automobiles, passenger vans designed to accommodate ten (10) or fewer people, two wheel motorcycles, pick-up trucks having a manufacturer's rating or payload capacity of one (1) ton or less, and any vehicle owned, used, or authorized by Declarant. Subject to Section 18 and Section H.18 of the Declaration, Authorized Vehicles may be parked in the parking areas in the Community intended for parking of motorized vehicles.

(c) Prohibited Vehicles. The following vehicles are "Prohibited Vehicles": recreational vehicles (e.g., motor homes, travel trailers, camper vans, boats, dune buggies, etc.), stake bed trucks, tank trucks, dump trucks, step vans, concrete trucks, or other similar vehicles, buses or vans designed to accommodate more than ten (10) people, vehicles having more than two (2) axles, trailers, including, without limitation, boat trailers, inoperable vehicles or parts of vehicles, aircraft, other similar vehicles, or any vehicle or vehicular equipment deemed a nuisance by the Board. Prohibited Vehicles shall not be parked, stored, or kept in any parking or loading areas in the Community. This prohibition shall not prohibit use of such vehicles in connection with deliveries to Commercial Use Units, provided, such vehicles shall not remain in any parking or loading area any longer than required to permit loading and unloading of any delivery.

(d) General Restrictions. All Authorized Vehicles owned or operated by or

within the control of an Owner or a resident of an Owner's Unit and kept within the Property shall be parked in that Owner's assigned parking stalls. No vehicle shall be parked in any parking stall if such vehicle does not completely and clearly fit between the painted parking lines designated for a parking stall or otherwise physically fit wholly within the designated space (the boundaries of which are the ground surface, any street side curb or garage wall, the interior edge of the painted stall striping, an imaginary line connecting the driveway edge of the painted stall striping, the lowest surface of the ceiling above the areas or any protruding pipe or apparatus above the stall area, or if there is no ceiling, the imaginary horizontal plane 7.5 feet above the surface of the floor or ground) or any other portion of the parking areas in the Property designed for ingress and egress of vehicles. There shall be no parking in the Property that obstructs free traffic flow, constitutes a nuisance, violates the Community Rules, or otherwise creates a safety hazard. The parking areas in the Property shall be used for parking Authorized Vehicles only and shall not be used for storage, living, recreational, or business purposes (except for storage in authorized storage spaces, if any). No maintenance, repair, restoration, or construction of any vehicle shall be conducted on the Property.

(e) Traffic and Parking Regulations. The Board shall have the right to police and regulate traffic in and otherwise control the use of parking areas and streets within the Community to minimize adverse effects and over-crowdedness attributable to commercial use. In furtherance of that right, Declarant and the Commercial Use Committee, at the request of the Board, may promulgate reasonable written rules and regulations with respect to such areas, and those rules and regulations shall be binding upon Owner on notice of the adoption and delivery of the rules and regulations to Owners. For the enforcement of said rules and regulations, the Board or the Commercial Use Committee, as designated in such rules and regulations, shall have the same remedies as if said rules and regulations were expressly incorporated herein, in addition to all other legal or equitable remedies, whether or not provided for in the Declaration.

Without limitation of the rights of Declarant or Commercial Use Committee, reasonable rules and regulations ("Parking Rules") may address or require, among other matters:

(f) a Commercial Use Unit occupant to offer, at their expense, valet parking during peak operating hours, as determined by Declarant or the Commercial Use Committee;

(g) off street parking for all commercial customers or invitees;

(h) employee parking outside the Community; and

(i) permitted users of and hours of permitted use of the Loading Zone shown on the Condominium Map.

18. Community Rules Respecting Parking. Declarant has the exclusive right to use and/or assign any Parking Stalls that are not appurtenant to any specific Unit, including any parking stalls reserved to Declarant in the Declaration or in a Recorded amendment to the Declaration. Declarant may relinquish this right and if Declarant waives this right with respect to any one or more unassigned Parking Stalls, use of those unassigned Parking Stalls, if any, may be governed by rules and regulations adopted in accordance with the Bylaws to assure equitable use of the stalls by all Owners. The Board of Directors may install parking meters, gates, security devices, checkpoints, and other equipment appropriate to this end and may issue stickers or adopt a permit or an allocation system. Without limiting the foregoing, the Board may establish additional regulations as it deems appropriate in its sole discretion with regard to street parking within the Community and with respect to any of the parking areas not

assigned to individual Units, including, without limitation, designating "residential guest parking," "commercial parking," "parking," and "no parking" areas thereon. Any parking areas shall be subject to such further reasonable control and use limitations as the Board may establish. The Board shall determine, in its discretion, whether there is a violation of the parking and vehicular restrictions set forth in the Declaration or established by the Board, and, if such noncompliance is determined by the Board to exist, the Board shall have the power to enforce all parking and vehicle use regulations applicable to the Property, including the power to remove violating vehicles from any of the Property pursuant to law. To enforce such a system, the Board and the Declarant shall also have the power to adopt and implement a ticket, fine, and towing program to foster compliance with any parking regulations that may be adopted. Non-payment of any approved fines or tickets may be treated as the equivalent of non-payment of common expenses and afford the Board and Declarant with same enforcement rights available under the Declaration with respect to such items.

19. Declarant's Rights With Respect to Parking Stalls. The restrictions in use set out in Sections 17(b) – (e), inclusive, Sections H.17(b) – (e) of the Declaration, inclusive, Section 18 and Section H.18 of the Declaration shall not apply to Declarant and the parking stalls reserved to Declarant.

20. Declarant's Limited Warranty. The Common Elements and their use is subject to an express limited warranty by Declarant in favor of the Association, which is conditioned on, among other items, appropriate regular and routine maintenance, inspection and repair of the Common Elements by the Association set out in Declarant's Limited Warranty, which shall be effective upon the recording of the Declaration and a copy of which shall be provided to the Association. An appropriate validation form, described below and in Declarant's Limited Warranty, will be delivered to the Association NOT later than the first annual meeting of the Owners. It is expressly understood and agreed by and between Declarant and each Owner and the Association that, other than this express limited warranty, DECLARANT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE COMMON ELEMENTS, THE COMMUNITY OR CONSUMER PRODUCTS OR OTHER THINGS WHICH MAY BE INSTALLED OR WHICH ARE CONTAINED IN THE COMMON ELEMENTS OR THE COMMUNITY, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, WORKMANLIKE CONSTRUCTION OR FITNESS FOR A PARTICULAR USE. During the term of Declarant's Limited Warranty, the Association shall in each and all instances permit Declarant or Declarant's designated representative to repair any and all items classified by Declarant as items covered by Declarant's Limited Warranty. The Association and its members shall have no further rights and Declarant no further obligation to the Association and/or its members in respect of such matters repaired by Declarant or Declarant's representative.

In providing for the maintenance, management and repair of the Common Elements pursuant to this Section and Section H of the Declaration, the Association shall comply with each of those obligations specified in the attached form of Declarant's Limited Warranty and undertake each of those actions therein required to be taken by the Association. In that regard, the Association shall let appropriate contracts to service professionals in order to provide and shall provide regular and routine maintenance, inspection and repair of the Common Elements. Without limitation of the obligations imposed on the Association pursuant to the Declaration, the Association, through its Board, shall execute all necessary documents in order to effectuate Declarant's Limited Warranty, including without limitation, the "Limited Warranty Validation Form". With respect to the Declarant's Limited Warranty, the Association acknowledges and agrees:

- With respect to items covered under Declarant's Limited Warranty, the Association hereby waives all other express or implied warranties, as set forth in Declarant's Limited Warranty, to the fullest extent permitted by law.
- The Association shall satisfy each and every requirement contained in Declarant's Limited Warranty, including without limitation those for written notice, access, right of repair and review etc., as detailed in Declarant's Limited Warranty.
- The Board has received and shall maintain a copy of Declarant's Limited Warranty and further understands and acknowledges that only those Defects identified in Declarant's Limited Warranty are covered by the limited warranty and only to the extent provided in Declarant's Limited Warranty.
- The Association has and undertakes to perform those affirmative maintenance obligations as set forth in Declarant's Limited Warranty, in addition to any maintenance obligations otherwise required by the Declaration or by applicable law.

21. Rights of Persons with Disabilities. Subject to the provisions of the Declaration, each Owner shall have the right to modify the Owner's Unit and the Board and/or the Declarant has the right to modify the route over the Common Elements leading to the front door of the Unit, at the Owner's sole cost and expense, in order to facilitate access to the Unit by persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which could be hazardous to such persons. The rights granted by this Section and Section H.21 of the Declaration are further subject to the following conditions: (a) the modifications shall be consistent with applicable building code requirements; (b) the modifications shall be consistent with the intent of otherwise applicable provisions of the Declaration pertaining to safety or the aesthetic integrity of the Community; (c) the modifications which are external to the Unit shall not prevent reasonable passage by other Owners or invitees on the Community, and shall be removed by the Owner when the Unit is no longer occupied by persons requiring those modifications; (d) any Owner who intends to modify a Unit pursuant to this Section and Section H.21 of the Declaration shall submit their plans and specifications to the Board for review to determine whether the modifications comply with the provisions of the Declaration; and (e) any change in the exterior appearance of a Unit shall be in accordance with the provisions of the Declaration and all applicable provisions of law. Any Owner with a disability desiring such a modification shall make such request, in writing, to the Board. That request shall set out, with specificity and in detail, the nature of the request and the reason that the requesting party needs to be granted such the modification. The Board shall not unreasonably withhold or delay its consent to such request and the Board shall not deny approval of the proposed modifications under this Section and Section H.21 of the Declaration without good cause.

22. Improvements and Pests. Except as otherwise specifically provided in the Declaration, any Supplemental Declaration, or any agreement with the Association, the performance and cost of all maintenance and repair of each Private Yard Area, and all structures, parking areas, landscaping and other Improvements located on or within such Private Yard Area shall be the sole responsibility of the Owner of the Unit to which such Private Yard Area is appurtenant. Each Owner shall maintain all Improvements, including landscaping upon or within such Owner's Private Yard Area, in a state of good condition and repair in accordance with the Declaration. Any Improvement shall comply with the City and County of Honolulu Ordinance 04-46, the Unilateral Agreement any sight distance restrictions and the Design Guidelines. No Owner or occupant of a Private Yard Area shall landscape or plant in

any area controlled by the Association or otherwise interfere with the landscaping and maintenance of such landscaping as performed by the Association. No such Owner or occupant shall interfere in any manner with the proper and effective operation of the irrigation facilities, if any, located in or on such Common Elements or easement areas, including any automatic or electric timer system(s) associated with such facilities. Further, each Owner acknowledges and agrees that the Owner is responsible for the control of pests (termites, insects, rodents and the like) in or around the Owner's Unit and Private Yard Areas and Improvements to the Private Yard Area. Notwithstanding anything to the contrary in the Declaration, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. Notwithstanding anything to the contrary contained in the Declaration, each Owner shall have and shall comply with each of those obligations specified in the form of Declarant's Limited Warranty provided to the Association and undertake each of those actions therein required to be taken by the Unit Owner.

23. Maintenance.

(a) Appearance of Improvements. Each Owner shall maintain the Unit and the exterior appearance of the Improvements to their Private Yard Area in a neat and attractive manner, consistent with the surrounding areas in accordance with the provisions of the Declaration and the maintenance responsibilities set out in Exhibit "J-2" of the Declaration. Each Owner shall also be responsible for maintenance of the any and all split system air conditioning systems servicing the Owner's Unit (whether components therefor are located in the Owner's Private Yard Area, another Unit's Private Yard Area or in the common elements of the Community). Notwithstanding anything contained herein to the contrary, for residential Units in Building Type II the split air conditioning units servicing said residential Units will be located on the roof of the respective buildings. The Association shall be responsible for maintenance, repair and replacement of that portion of the air condition systems located outside of the Unit, but shall bill the benefitted Owner for such costs. Residential Owners in Building Type II shall have no right to access and/or repair, maintain or replace the portion of the air conditioning system located outside the physical boundaries of their Unit.

(b) Improper Maintenance and Use. In the event any portion of a Unit or Limited Common Element or any Private Yard Area is so maintained as to present a public or private nuisance or an unreasonable condition (as determined by the Board) with respect to other Owners or occupants, or as to substantially detract from the appearance or quality of the surrounding Private Yard Areas or other areas of the Community, or in the event any portion of a Private Yard Area is being used in a manner which violates the Declaration, the Community Rules or any applicable Supplemental Declaration, or in the event the Owner of a Unit or any Private Yard Area or portion thereof is failing to perform any of his or her obligations under the Declaration, any applicable Supplemental Declaration or Community Rules, the Board may by resolution, make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto, give notice to the offending Owner that, unless corrective action is taken within ten (10) days, the Board may cause such action to be taken at the Owner's cost. If, at the expiration of said ten (10) day period of time, the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be a Special Assessment against the offending Owner and the Owner's Unit, secured by a special assessment lien enforceable in accordance with Sections K.1 and O of the Declaration.

24. Design Guidelines. Each Owner shall comply with the Design Guidelines set forth in the Community Rules and the Master Design Guidelines.

25. Grade of Private Yard Areas. Each Owner shall maintain the grade and ground cover of the Owner's Private Yard Area so as to prevent soil erosion and, excessive water run off onto any neighboring Private Yard Area or Common Elements, and the ponding of any water on the Private Yard Area. Such erosion and ponding may contribute to expansion or shrinking of soils underlying improvement and damage the area.

26. Landscaping.

(a) All Private Yard Areas shall be landscaped in accordance with plans that comply with the Master Declaration, the Declaration, the Design Guidelines and the Community Rules. Landscaping on all Private Yard Areas shall be maintained in a neat and attractive manner, consistent with any surrounding Common Elements and shall conform to any additional landscape maintenance standards established in the Design Guidelines and which may be established under the Master Declaration and the Declaration. The entire Private Yard Area must be landscaped within 90 days after Recordation of the Deed to Owner. In the event an Owner fails to landscape these areas on Owner's Private Yard Area within 100 days after Recordation of the Deed to the Owner's, either the Declarant or the Association may, at their respective option, perform all such clearing and landscape work and the Owner shall reimburse the Declarant or the Association, as the case may be, for the cost thereof upon demand together with interest thereon at the maximum rate allowed by law; provided, however, that the cost thereof does not exceed \$5,000, exclusive of interest. All such sums expended shall be a special assessment lien on the Unit, subject to foreclosure in accordance with Sections K and O of the Declaration.

(b) Similarly, if after 30 days following written demand, the Owner fails to maintain, repair and/or restore, as the case may be, the landscaping on the Private Yard Area in a neat and attractive manner, the Declarant or the Association may at their respective option perform the work and shall be reimbursed therefor, together with the interest on amounts advanced to perform such work. Any sums not paid by the Owner on demand shall be a lien against the Unit, subject to foreclosure as herein permitted. All landscaping in Private Yard Areas, including without limitation, plants, flowers, bushes, shrubs, or foliage of any kind, must be at least two (2) feet away from the Unit in order to prevent possible termite damage to the Unit.

27. Trees and Planting Strip Area. The Declarant may plant trees in Private Yard Areas or in the Common Elements within the Community and along the Community Access Drive(s) in the Community, including without limitation the planting strip between the curb and the sidewalk (the "Planting Strip Area"). No trees planted by the Declarant shall be removed, changed or relocated without the prior written consent of the Declarant and the County agency or agencies with jurisdiction thereover. The Association shall be responsible for the proper maintenance and care of any trees planted in any Planting Strip Area adjacent to the Community. Each Owner shall be responsible for the proper care and maintenance of any tree planted in such Owner's Private Yard Area. Under no circumstances may the Owner alter the Planting Strip Area without written permission of the Board of Directors and the Declarant. Each Owner is prohibited from altering, modifying, removing, or adding any tree to the Planting Strip Area and may not without limitation (i) fill in the ground area of the Planting Strip Area, (ii) pile building materials or equipment in the Planting Strip Area, (iii) poison any landscaping in the Planting Strip Area, (iv) post any signs or notices in the Planting Strip Area, or (v) damage any tree in the Planting Strip Area. County ordinance restricts the removal of trees growing in the Planting Strip Area and may restrict the alteration of any landscaping in the Planting Strip Area, without first obtaining a permit from the DPP, or in emergencies, the traffic engineer and the chief engineer of the County. Owners may not plant trees in the Planting Strip Area, landscape,

or alter the landscaping in the Planting Strip Area without first obtaining an appropriate Street Tree Planting Permit from the DPP and/or approval of the Declarant. The County may prohibit any person from injuring or destroying street trees in any manner, including but not limited to: (i) the filling in of the ground area around the tree; (ii) the piling of building materials or equipment which may injure the tree; (iii) poisoning the tree or parking strip area; (iv) the posting of any signs or notices on any tree; and (v) the damaging of any tree.

28. Exterior Lighting. Any exterior lighting used in any Private Yard Area shall be suitably dimmed, screened, shaded or diffracted so that no offensive glare from the light source is visible from any neighboring Private Yard Area or from the street. Owners shall properly maintain any exterior lighting fixtures located within Owners' respective Private Yard Areas.

29. Existing Drainage Facilities and Easements. Neither the Association or any Owner shall alter the existing drainage pattern within the Community or on any Private Yard Area, nor shall any Owner modify any existing drainage facility located on the Owner's Private Yard Area. Private Yard Area Owners shall be responsible for maintaining the existing drainage pattern within Owners' respective Private Yard Areas. The Owner of a Private Yard Area on which any drainage ditch facility or portion thereof is located shall be responsible, at the Owner's cost, for the maintenance, repair and cleaning, as required, of the drainage ditch facilities located on the Owner's Private Yard Area. The County shall be responsible for the maintenance of the underground drainage facilities located on a Private Yard Area, if any, which are constructed for the benefit of the County.

30. Existing Fences and Walls. Among the Improvements constructed by Declarant are various vinyl or aluminum fences and masonry or cementitious walls located within various Private Yard Areas or along Private Yard Area boundaries. The Owners may not remove or alter such fences or walls. The locations of the fences or walls shown on the Condominium Map are tentative and may be changed at any time, all without further notice to Owner. The final locations of the fences and walls will be shown on the Condominium Map filed with the "as built" statement.

31. Future Additions and Alterations. No Owner shall add to or alter any Improvement constructed by the Declarant, including the Units, without the prior written consent of the County Agency with jurisdiction thereover, the DPP, and the Association's Board. All Improvements constructed within the Private Yard Areas by an Owner shall conform with the requirements of the Master Declaration, the Declaration and the Design Guidelines, if any, and the restrictions contained in the Declaration. Specifically, but without limitation, yard setbacks and the height of all Improvements on each Private Yard Area shall comply with any and all applicable zoning requirements, including, without limitation, any applicable requirements of the "Land Use" or "Zoning" or "Building" Ordinance for the County. In the event of a conflict between the Master Declaration, the Declaration and the Design Guidelines, the more restrictive provision shall control.

32. Right of Removal. Any construction, alteration, or other work done in violation of the Declaration shall be deemed to be nonconforming. Upon written request from the Board, the Owner(s) shall, at his, her or their own cost and expense, remove such nonconforming construction, alteration, or other work and shall restore the altered area to substantially the same condition as existed prior to the nonconforming construction, alteration, or other work. Should an Owner fail to remove and restore as required in this Section and Section J.11 of the Declaration, the Board or its designee(s) shall have the right to enter the Unit or Private Yard Area, remove the violation and restore the property to substantially the same condition as existed prior to the nonconforming construction, alteration or other work. The Owner shall be

liable for all costs thereof together with interest thereon at the maximum rate allowed by law, and the Association shall have an assessment lien to secure the payment of such costs.

33. Dispute Resolution. All disputes among Unit Owners concerning the common or individual responsibility for items described in Section J of the Declaration shall first be reviewed by the Board or a committee thereof designated for that purpose and the Board's non-binding opinion may be accepted by the disputing parties. Any Owner dissatisfied with such non-binding opinion may thereafter resolve the matter pursuant to Section T of the Declaration.

34. Not Applicable to Declarant. The foregoing provisions of this Section and Section H of the Declaration shall not apply to Units owned by Declarant or to any Improvements proposed or made by Declarant in connection with its development, construction, promotion, marketing, sale, or leasing of any Unit or any other portion of the Community.

35. Restriction on Use. An Owner shall not cause or permit any Hazardous Material to be generated, used, transported, stored or disposed of upon, in or about his or her Unit or the Common Elements, except in a manner that complies with all applicable Hazardous Materials Laws.

36. Affordable Housing Buy-Back Restriction. Units designated by Developer as affordable housing (the "Affordable Units") shall be subject to a four (4) or eight (8) year buy-back deed restriction in favor of the City and County of Honolulu and the Developer. The buy-back restriction limits the lease, rental, or resale of the Affordable Unit during the restriction period.

THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE SPECIAL USE RESTRICTIONS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

**EXHIBIT L**

**Section 1.12 -- Encumbrances Against Title**

1. Terms, provisions and conditions, contained in that certain AMENDED DOCUMENT LISTING CONDITIONS AND PRE-CONDITIONS TO RECLASSIFICATION dated November 14, 1989, filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 1684751 herein referred to and the effect of any failure to comply with such terms, provisions and conditions.

Said Amended Document Listing Conditions and Pre-Conditions to Reclassification was amended by instrument dated September 11, 1995, filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2260756 and recorded in the Bureau of Conveyances, State of Hawaii, as Document No. 95-119179.

2. Terms, provisions and conditions, contained in that certain AMENDED AND RESTATED DOCUMENT LISTING CONDITIONS TO RECLASSIFICATION dated September 11, 1995, filed in the Office of the Assistan Registrar of the Land Court, State of Hawaii, as Document No. 2260754 and recorded in the Bureau of Conveyances, State of Hawaii, as Document No. 95-119177 herein referred to and the effect of any failure to comply with such terms, provisions and conditions.

Said Amended Document Listing Conditions and Pre-Conditions to Reclassification was amended by instrument dated September 11, 1995, filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2260756 and recorded in the Bureau of Conveyances, State of Hawaii, as Document No. 95-119179.

3. UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

Executed By : the TRUSTEES OF THE ESTATE OF JAMES CAMPBELL,  
DECEASED, "Declarant"

On the terms, covenants and conditions contained therein,

Dated : November 17, 2004  
Recorded : November 19, 2004 in the Office of the Assistant Registrar of the  
Land Court, State of Hawaii, as Document No. 3195643

4. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in LIMITED WARRANTY DEED WITH COVENANTS AND RESERVATION OF RIGHTS recorded December 16, 2005 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 3368412, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or natural origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c) or Section 515-6, HRS.

ASSIGNMENT OF RIGHTS dated December 13, 2010, recorded February 23, 2011 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 4051714.

5. AS TO LOT 19704 ONLY:
  - A. EASEMENT 10865 (2-ft. wide, 867 square feet)

For: landscaping purposes  
As shown on Map 1585  
As set forth by Land Court Order No. T-8415242, filed January 15, 2013
6. EASEMENT 10866 (10,357 Square feet)

For: maintenance, landscaping and irrigation purposes  
As shown on Map 1585  
As set forth by Land Court Order No. T-8415242, filed January 15, 2013
7. EASEMENT 10867 (10,357 Square feet)

For: public access purposes  
As shown on Map 1585  
As set forth by Land Court Order No. T-8415242, filed January 15, 2013
8. Any claim of lien for services, labor or material arising from an improvement or work under construction or completed at the date hereof.
9. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in Master Declaration of Covenants, Conditions, Restrictions and Easements for Mehana at Kapolei recorded January 12, 2009 in the Land Court as Document No. 3818406, as amended by Document No. T-8219212, as the same may be further amended, restated and/or supplemented
10. The herein property described was annexed to the above covenants, conditions, restrictions and easements by Supplemental Declaration of Annexation for Mehana at Kapolei (Awakea at Mehana – Mehana Parcel 4) dated February 15, 2013, recorded in the Land Court as Document No. T-8446407.
11. Condominium Map No. 2193, filed in the Land Court, as amended by instruments recorded in the Land Court as Documents No. T-8507439 and T-8659458.
12. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in the Amended and Restated Declaration of Condominium Property Regime of Awakea at Mehana recorded in the Land Court as Document No. T-8709235, as amended by Document Nos. T-8722278, T-8807191, T-8807192, T-8878298, T-8897181, T-8936277, T-8955204, T-8963182, T-8991228, T-9024125, T-9053184, T-9053185, T-9088536, T-9088537, T-9109186, T-9114160, T-9160374, T-91991138, and T-9258358 as the same may be further amended, restated and/or supplemented.
13. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in the Bylaws of the Association of Unit Owners of Awakea at Mehana recorded in the Land Court as Document No. T-8446409, as amended by Document Nos. T-8709236 and T-9109187 as the same may be further amended, restated and/or supplemented.

14. Real property taxes due and payable. For more information contact the Real Property Assessment Office, City and County of Honolulu
15. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following:

Instrument : GRANT OF EASEMENT

Granted To : HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation

For : transformer vault purposes

Dated : September 18, 2013

Recorded : September 26, 2013 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. T-8669008

In addition to the encumbrances listed above, Affordable Units shall be subject to a four (4) or eight (8) year buy-back deed restriction in favor of the City and County of Honolulu and Developer that restricts the lease, resale or rental of the Affordable Unit during the restriction period.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE ENCUMBRANCES AGAINST TITLE CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

## EXHIBIT M

### Section 1.13 -- Uses Permitted by Zoning and Zoning Compliance Matters

The County's zoning designation for the Community is AMX-2 (Medium Density Apartment Mixed Use District with a 45-foot height limit) and properties surrounding the Community are zoned for mixed residential and commercial uses and have other differing zoning designations. The following uses are permitted subject to approval by the Commercial Use Committee as detailed in the Declaration or are prohibited where indicated:

#### **PERMITTED COMMERCIAL USES**

##### **Commerce and Business**

1. **Convenience Stores** means a small retail establishment intended to serve the daily or frequent needs of surrounding population. Included are grocery stores, drug stores and variety stores. Excluded are automobile service stations, repair establishments and drive-thru eating and drinking establishments.
2. **Dance or Music Schools** means an establishment where instruction in dance or music is provided students for a fee are permitted only in Commercial Units. Establishments where instruction is accessory to cabarets, nightclubs or dancehalls are not included in this definition.
3. **Eating Establishments**
4. **Financial Institutions** means those establishments which provide a full range of traditional banking services on the premises, such as savings and checking accounts, loans, safety deposits, fund transfers, trust functions and investments (e.g., certificates of deposit, savings bonds, annuities). This term includes only banks, credit unions, and savings and loan institutions. This term does not include those establishments, such as loan processing companies, accounting firms and other bookkeeping services, investment brokers, insurance offices, title transfer companies, pawn shops, and "pay-day," check-cashing or personal finance institutions, which are principally involved in providing a limited range of financial services or products on the premises.
5. **Medical Clinics** means an office building or group of offices for persons engaged in the practice of a medical or dental profession or occupation. A medical clinic does not have beds for overnight care of patients but can involve the treatment of outpatients, excluding oncology, or anything treatment emitting radiation. A "medical profession or occupation" is any activity involving the diagnosis, cure, treatment, mitigation or prevention of disease or which affects any bodily function or structure.
6. **Personal Services** means establishments which offer specialized goods and services purchased frequently by the consumer. They include barbershops, beauty shops, garment repair, laundry cleaning, pressing, dyeing, tailoring, shoe repair and other similar establishments.

THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE USES PERMITTED BY ZONING AND ZONING COMPLIANCE MATTERS CONTAINED IN THE DECLARATION, BY LAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

## EXHIBIT N

### Section 3.5 -- Changes to the Condominium Documents

Owners may not amend any provisions in the Declaration and Bylaws reserving rights to the Developer without the consent of Developer.

1. Amendment of Declaration by Unit Owners. Except as otherwise expressly provided in the Declaration, including without limitation Section 6 below and Section R.6 of the Declaration, or in the Act, the Declaration may be amended by the affirmative vote or written consent of not less than seventy-five percent (75%) of the Unit Owners at a meeting of the Association called for that purpose, and effective only upon the Recording of an instrument setting forth such amendment and vote, duly executed by two (2) officers of the Association as provided in the Bylaws; provided, however, that, except as otherwise expressly provided in the Declaration or in the Act, the approval of holders of first mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by such eligible holders are allocated, together with such other approval requirements as set forth in herein and Section R of the Declaration, shall be required to materially amend any provision of the Declaration, or to add any material provisions hereto, which establish, provide for, govern or regulate any of the following:

- (a) By act or omission, seek to abandon or terminate the Community;
- (b) Change the common interest appurtenant to any individual Unit;
- (c) Partition or subdivide any Unit;
- (d) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements, provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Community shall not be deemed a transfer within the meaning of this subsection;
- (e) Use condemnation proceeds or hazard insurance proceeds for losses to the Property or any part thereof (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of same;
- (f) Amend any provision of the Declaration or the Bylaws that materially and adversely affect mortgagees, provided, however, that this subsection shall not apply to any actions taken pursuant to rights expressly reserved to Declarant in the Community Documents. To qualify as an "eligible holder of first mortgage," a first mortgagee must have made a written request to the Association for timely written notice of proposed amendments to the Community Documents, as provided in the Bylaws; provided, however, that this subsection shall not apply to any actions taken pursuant to rights expressly reserved to Declarant in the Community Documents.

Any amendment to the Declaration on behalf of the Association, shall be signed by such officer or officers as shall be provided by general or special resolution of the Board or, in the absence of any resolution applicable to such instrument, by the President and Vice President, or by the President or the Vice President and the Treasurer or the Secretary.

2. Amendment of Declaration by Declarant.

(a) Any provision of Section R to the contrary notwithstanding, and until the last of the Recording of Unit conveyances or agreements of sale with respect to all of the Units in the Community in favor of persons other than Declarant, Declarant may amend the Declaration, the Bylaws and/or the Condominium Map, without the approval, consent or joinder of, or notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lienholder, Unit purchaser or any other person who may have an interest in the Community, to correct typographical or mathematical errors and to make such amendments as may be required by law, by the Real Estate Commission of the State of Hawaii, by any title insurance company issuing a title insurance policy on the Community or any of the Units, by any institutional lender lending funds on the security of the Community or any of the Units, or by any governmental agency (including without limitation the VA, HUD, FHA, FNMA and/or FHLMC) or as otherwise required by Declarant (including specifically without limitation the right to alter, adjust, or reassign guest parking stalls, retrofit adaptable parking stalls and limit the use thereof, and to change covered and uncovered parking stalls); provided, however, that, except as otherwise provided herein, no such amendment which would change the common interest appurtenant to a Unit or substantially change the design, location or size of a Unit or the building in which it is located shall be made without the consent to such amendment by all persons having an ownership interest in such Unit.

(b) Any provision of this Section to the contrary notwithstanding, Declarant may amend the Declaration (and when appropriate the Condominium Map) as provided in Section E, Section N or otherwise in the Declaration without the approval, consent or joinder of, or notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lienholder, or any other person who may have an interest in the Community or in any Unit.

3. Amendment of Declaration by Declarant to File an As Built Certificate. Any provision of this Section or Section R of the Declaration to the contrary notwithstanding, Declarant may amend the Declaration (and when appropriate the Condominium Map) without the approval, consent or joinder of, or notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lienholder, Unit purchaser or any other person who may have an interest in the Community or in any Unit, to file a verified statement of the Declarant, a registered architect, or a professional engineer certifying that the final Recorded Condominium Map fully and accurately depicts the layout, location, house numbers and dimensions of the Units, as built, or that any revised plans being filed simultaneously with the amendment involve only immaterial changes to the layout, location and dimensions of the Units as built or any change in any house number, or such other changes as Declarant is permitted to make pursuant to the Declaration.

4. Amendment of the Declaration Regarding Parking Stall Assignments. Notwithstanding anything to the contrary herein contained, Declarant may amend the Declaration (and when appropriate the Condominium Map) without the approval, consent or joinder of, or notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lienholder, Unit purchaser or any other person who may have an interest in the Community or in any Unit in any manner required to retrofit guest parking stalls so they are suited for use by persons with disabilities and to assign such retrofitted stalls or existing guest stalls designated for use by persons with disabilities as appurtenant Limited Common Elements to any one or more of the units intended for use by persons with disabilities upon substitution therefor of alternate guest parking stall(s). Such reassignment is hereby specifically

declared not to constitute a material amendment of the Declaration or Condominium Map. All costs of such reassignment shall be borne as determined by Declarant. Notwithstanding the foregoing, Declarant also reserves the right to interchange guest parking stalls and the handicap guest parking stall with other parking stalls in the control of Declarant as owner of a Unit to accommodate Unit owners in need of such.

5. Votes Required. Any provision of this Section or Section R of the Declaration to the contrary notwithstanding, any amendment affecting any provision of the Declaration which is for the express benefit of holders or insurers of first mortgages on Units shall require the approval of holders of first mortgages on Units to which at least sixty seven percent (67%) of the votes of Units subject to mortgages held by such holders are allocated, together with such other approval requirements as set forth in this Section and Section R of the Declaration. Except to the extent such rights are specifically reserved by the Declarant under the Declaration, any holder, insurer, or guarantor of a first mortgage of a Unit whose interest appears in the record of ownership or who has otherwise delivered a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the House number) shall be entitled to:

(a) Prior written notice of any proposed amendment by the Association to the Declaration or these Bylaws effecting a change in (1) the boundaries of a Unit, (2) the common interest pertaining to the Unit, or (3) the purposes to which the Unit, the Limited Common Elements appurtenant thereto, or the Common Elements are restricted;

(b) Prior written notice of any proposed termination of the Community;

(c) Timely written notice of any actual or threatened condemnation or eminent domain proceeding or casualty loss affecting the Property or any portion thereof;

(d) Timely written notice of any significant damage or destruction to the Common Elements or to a Unit on which there is a first mortgage held, insured, or guaranteed by such holder which results in a loss greater than ten percent (10%) of the annual Association Budget;

(e) A copy of any bond required to be posted before commencing or permitting construction of any Improvements on or to the Property;

(f) Timely written notice of all meetings of the Association (the holder or insurer of a first mortgage being permitted to designate a representative to attend all such meetings);

(g) Notice of any default by the Owner of the Unit involved which is not cured within sixty days;

(h) Upon request therefore, a certificate of any then unpaid assessments for common expenses due from the Owner of the Unit involved, as provided in Section 6.13 of the Bylaws;

(i) A copy of all pleadings filed in any lawsuit, administrative proceedings, or other action affecting the Property, or any portion thereof, upon specific written request and at such Person's expense;

(j) Prior written notice of any proposal by the Association to subdivide, encumber, sell, or transfer the Common Elements or any part thereof, provided that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Community shall not be deemed a transfer within the meaning of this subsection;

(k) Prior written notice of a lapse, cancellation, or material modification of any insurance policy maintained by the Association;

(l) Prior written notice of any proposed action that requires the consent of a specified percentage of mortgagees;

(m) In the event provisions requiring the use of a professional management company are removed from the Declaration or the Bylaws, a majority of eligible mortgagees shall have the right to demand that the Association use professional management; and

(n) In the event provisions requiring an annual audit of the Association's financial records are removed from the Declaration or the Bylaws, a majority of eligible mortgagees shall have the right to demand an audit of the Association's financial records.

6. No Impairment or Diminishment of Declarant's Rights. Any provision of the Declaration to the contrary notwithstanding, and in addition to such other approval requirements as are set forth in this Section and Section R of the Declaration, to the extent permitted by Section 514B-106(d) of the Act, the prior written approval of Declarant is required before any amendment which would impair or diminish the rights of Declarant to complete the Property or sell or lease Units therein in accordance with the Declaration shall become effective. Notwithstanding any other provisions of the Declaration, until such time as Declarant no longer owns any Unit in the Community, the following actions, before being undertaken by the Association, shall first be approved in writing by Declarant:

(a) Mortgagee Approval. Any amendment or action requiring the approval of Mortgagees pursuant to the Declaration;

(b) Capital Improvement Assessment. The levy of a capital improvement Assessment for the construction of new facilities not constructed in the Common Element by Declarant;

(c) Reduction in Services. Subject to any restrictions contained in the Bylaws regarding limitations on general assessment increases, any significant reduction of Association maintenance or other services;

(d) Assessments. Alteration in the method of fixing and collecting assessments or any increases in assessments beyond the amounts permitted under the Bylaws;

(e) Responsibility for Repairs. Reduction in the level of, or change in allocation of, responsibility for maintenance of and repairs to all or any portion of the Common Element subject to the Declaration, or any other maintenance obligations of the Association set forth in the Declaration;

(f) Common Elements. Conveyance or dedication by the Association of all or any portion of the Common Elements;

(g) Awakea DRC Enforcement and Review Procedures. Modification of the enforcement and review procedures of the Board or Awakea Design Review Committee, or any change in the architectural and landscaping design originally installed by Declarant;

(h) Improvements to and Maintenance of Common Elements. Modification to Improvements to the Common Elements or to the level or frequency of maintenance of the Common Elements;

(i) Enforcement of the Declaration. Alteration in the method of enforcing the provisions of the Declaration; or

(j) Declarant's Reserved Rights. Any modification of the rights reserved and granted to Declarant herein with respect to development or sale of the Property or which are for the express benefit of Declarant.

Amendment to Bylaws:

Pursuant to Section 3.2 of the Bylaws, the Bylaws may be amended to reduce the number of Board members where at least seventy percent (70%) of the unit owners do not reside at the Community by the written consent of a majority of Owners or the vote of a majority of a quorum at any annual meeting or special meeting called for that purpose.

Pursuant to Section 11.2 of the Bylaws, the Bylaws may be amended in any respect not inconsistent with law or the Declaration by the affirmative vote or written consent of not less than sixty-seven percent (67%) of the Owners.

Until such time as the Declarant has turned over administration of the Community to the Association, Declarant shall have the right to amend the Bylaws without the approval, consent or joinder of, or notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lienholder, Unit purchaser or any other person who may have an interest in the Community.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE CHANGES TO THE CONDOMINIUM DOCUMENTS CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

## EXHIBIT O

### Section 3.6 -- Rights Reserved by the Developer to Make Changes to the Condominium Project or Condominium Documents

In addition to the easements established as Limited Common Elements and any easements and reserved rights described in Exhibit "D-1" attached to the Declaration, (including without limitation the rights reserved to Declarant and others in Section F of the Declaration), the Units and Common Elements shall have and be subject to the following easements and reserved rights by Declarant who shall have the right to change any of the Community Documents for any of the following reasons or purposes:

1. The rights reserved in this Section and Section E of the Declaration are intended to permit the Declarant to complete the development and sale of the Units, as contemplated by the Declaration and as shown on the Condominium Map. Except as otherwise provided, the rights reserved in this Section and Section E of the Declaration shall terminate upon the closing and recordation of the last Declarant owned Unit in the Community.

2. Declarant shall have the right to designate, grant, convey, transfer, cancel, relocate and otherwise deal with any easements over, under, across or through the Common Elements of the Community, the Private Yard Areas and the Community Access Drive(s) as shown on the Condominium Map for any reasonable purpose, which may include, but shall not be limited to, those purposes which are necessary for the use, operation, care, upkeep, maintenance or repair of any Unit, the Common Elements or any easements for utilities or for any public purpose, which may include the creation and grant of easements for utilities, air conditioning service or access ways or stairs for one or more units, any public-type facility (mailboxes and the like), sanitary and storm sewers, cable television transmission facilities, party walls (including the creation of the same on the Community boundaries), refuse disposal, sight distance, landscape, maintenance, driveways, parking areas, access drives, Community Access Drive(s) and other similar purposes, on, over, across, under and through the Common Elements of the Community and the Private Yard Areas. Without limiting the generality of the foregoing, Declarant reserves the right to utilize any common roadway and utility facilities (including without limitation water, sewer, electrical, telephone, and cable) described in the prior sentence (such as, but not limited to, waterlines, sewer lines, Community Access Drive(s) and the like) whether located in designated easement areas or otherwise, together with the right of entry to construct, reconstruct, operate, maintain, repair and relocate such lines, facilities and appurtenances and to grant any such easements or rights of way to governmental or quasi-governmental authorities, utility or service companies, homeowner's associations or other entities and the right to grant, dedicate, designate, use and enjoy easements and/or rights-of-way for access purposes (including for vehicular and pedestrian access). Declarant may, in its discretion, complete any construction of intended facilities in advance of the designation or creation and granting of the easement covering the facilities so constructed. Without limiting the generality of the foregoing, Declarant reserves the right to grant easements in favor of the Master Association, including, without limitation, for access landscape, electricity, utility, and maintenance purposes over any portion of the Land. The rights reserved to Declarant include specifically without limitation the right to utilize any utility service to the Community to complete such construction, to perform warranty or punchlist repair services within the Community and to serve adjacent and separate developments outside of the Community provided Declarant with respect to such separate and/or adjacent communities submeters such use, and may use the Community Access Drive(s) to serve adjacent developments provided the association controlling such development shares pro rata in the cost of maintenance and repair of the Community Access Drive(s) and reimburses the Association for any submetered use. The easements retained in this Section and these reserved rights shall

be exercised in a manner that will not materially impair or interfere with the use of any Unit. In the event of a submetered use (such as water service), the Association shall be entitled to confirm submeter readings. Each Owner, by purchasing a Unit, consents to any such designation, granting, conveyance, transfer, cancellation, relocation and reservation of easements and/or rights of way as provided above without the necessity of any Owner or those claiming by, through or under an Owner entering into any further agreement respecting such action or document; provided, however, that such Owner and those claiming by, through or under an Owner agrees to join in and execute such documents and instruments and do such other things as may be necessary or convenient to effect the same promptly at the request of Declarant without payment of additional consideration.

3. Easement to Conduct Sales Activities. Declarant, and its agents, successors, mortgagees and assigns, shall for the benefit of the Mehana Community have the right and an easement to conduct extensive sales activities on and at the Community, including the use of any Unit owned by Declarant (and any other Unit, with the express permission of the Owner of such Unit) and the Common Elements (excluding Limited Common Elements appurtenant to other Units) for model units, sales and management offices, parking and extensive sales displays and activities, and the posting and maintenance of signs and other advertisements relating to such sales activities. Declarant's sales activities may include one or more sales offices for other portions of the Mehana Community.

4. Reserved Right to Make Continuing Disclosures. Declarant reserves, for itself and its successors and assigns, the right during the course of Declarant's sales of Units in the Community to supplement, modify and amend the estimated breakdown of annual maintenance fees and estimated cost of assessment to each Unit, as Declarant deems appropriate, to reflect changes in estimated expenses applicable to ownership of Units attributable to the increase in cost of service or modification of proposed service to the Association reflected in the budget for annual maintenance fees. Upon such modifications, Declarant may supplement and amend its public report applicable to the Community, which modification shall not be deemed material in any respect.

5. Declarant's Easement to Complete Construction and Make Repairs. Declarant and its agents, employees, contractors, licensees, successors, mortgagees and assigns shall have an easement over, under and upon any portion of the Community, including the Common Elements, any utility service, Limited Common Elements and any Unit, as may be reasonably necessary for the inspection of and for the completion of improvements to and correction of defects and other "punchlist" and warranty items in the Unit or Private Yard Area or the Community, including without limitation, for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of any portion of the Community for all reasons determined appropriate by Declarant, including without limitation so as to improve the drainage of water within the Community. The rights reserved in this Section shall continue the later of: (i) the Recording of the "as built" verified statement required by Section 514B 34 of the Act; (ii) the "date of completion" of improvements requiring repair as defined in Section 507 43(f), Hawaii Revised Statutes of the last Unit constructed in the Community, (iii) the expiration of the applicable limited warranty period for any portion or portions of the Common Elements, or (iv) the conclusion of the statute of repose as set forth in Section 657-8, Hawaii Revised Statutes, with respect to the last Unit constructed in the Community.

6. Declarant's Easements for Development, Construction, and Sale. Declarant and its agents, employees, contractors, licensees, successors, mortgagees and assigns shall have an easement over, under and upon the Community and each and any portion of the Community and the individual Units to create and cause noise, dust, vibration and other nuisances or

annoyances created by and resulting from any work connected with or incidental to the development, construction and sale of any Unit or other Improvement to the Community, any additional Increment to the Community, or any other community which Declarant, its successors or assigns, may develop on property adjacent to or in the vicinity of the Community. Each and every Owner or other person acquiring any interest in the Community waives any and all rights, claims or actions that might otherwise be asserted against Declarant, its agents, employees, licensees, successors, mortgagees and assigns, based on any such noise, dust, vibration and other nuisances or annoyances. Without limitation of the foregoing:

(a) Declarant, its agents, employees, consultants, contractors, licensees, successors, mortgagees and assigns, shall have an easement over, under and upon the Community as may be reasonable or appropriate for additional construction, the completion of renovations to the improvements of the Community, and (at the option of Declarant) the correction of defects therein. In addition to any other easements reserved to Declarant under the Declaration, in connection with, and to the extent necessary for the development and construction of Units, common facilities, and/or Increments following the transfer of ownership of any Unit to an individual or entity other than Declarant, Declarant shall have the right to enter upon the Community premises with employees, agents and contractors for all purposes reasonably necessary for or useful to constructing and completing all Increments in accordance with the Declaration and the Condominium Map. Such rights shall include, but are not limited to, the following:

(i) An easement over, under and across the Common Elements of the Community and all utility service to the Community for the purposes of all work connected with or incidental to the development, construction and sale of the Units or Increments; and

(ii) The right in the nature of an easement over and upon the existing buildings and Common Elements of the Community to create and cause dust, noise, vibration and other nuisances created by and resulting from any work connected with or incidental to the development, construction and sale of the Increments or Units.

(b) Declarant, its contractors, subcontractors, licensees, mortgagees and assigns, and their respective employees and agents, shall have the right and an easement at any time and from time to time to enter upon, use, remove, replace, add to, or otherwise alter the Common Elements and the Limited Common Elements of the Community and to do all things reasonably necessary, desirable or useful for designing, developing, constructing or completing any additional Increment to the Community, connecting any such additional Increment to the utility installations of the Community, and selling the Units contained within any such additional Increment, including, but not limited to, the right to consolidate any parcel(s) of land covered hereby with any other parcel(s) of land in connection with the merger of increments; provided that the exercise of the rights granted herein shall not cause any permanent or avoidable interruption in the service of utilities to the Community, and provided further that any person exercising such rights shall use reasonable efforts, without additional cost to Declarant and consistent with maintaining the progress of the design, development, construction, completion and sale of the additional Increment, to minimize interference with the Owners' use and enjoyment of the Property. Declarant further reserves the right to grant, for the benefit of the owner or owners from time to time of all or any portion of each of the other Increments, easements over, under, across, along, upon and through the Common Elements of the Community for ingress and egress purposes, access purposes, electrical, gas, sight distance, communications and other utility purposes, sanitary sewer, drainage and drainline, waterline, and flowage purposes, and all other purposes, to the State of Hawaii, the County, the Board of Water Supply of the County, any other appropriate governmental agency, and/or any

public or private utility or other corporation, partnership, individual or entity, provided that such easements and rights-of-way do not materially impair or interfere with the use of any Unit in the Community or the Common Elements of the Community.

(c) Declarant's exercise of rights reserved in this Section are subject to Declarant's agreement to repair at its sole cost, in a good and workmanlike manner and in accordance with all laws any damage caused to the Community by reason of the exercise of the easements granted by this Section.

7. Declarant's Reserved Right Regarding Licenses and Permits. Developer shall have the reserved right, which may be exercised as herein provided or as provided in **Section U.2** to (a) amend any of the Community Documents, including, without limitation, the Declaration as permitted by the Declaration, (b) enter into any agreements, including, without limitation, to declare and subject the Land and Improvements to restrictive covenants, (c) designate and grant easements, (d) secure any other governmental permits, and (e) do all things necessary and convenient to satisfy, alter or amend the requirements of any land use or other permits pertaining to the Community, including, without limitation, such permits as may be issued authorizing the Community, including one or more building permits, Conditional Use Permit(s) (Minor), Zoning Adjustment(s), and Special District (Major) Permit(s), issued by the Department of Planning and Permitting of the County (the "**DPP**"), and to execute, file and deliver any and all documents necessary to effect the same, including, but not limited to, any amendments to the Declaration and to the Condominium Map.

Without limitation of the foregoing, each Owner acknowledges and agrees that Declarant, on behalf of the Association or Declarant, may (i) seek or has obtained certain licenses and permits from the DPP and other government agencies relating to the development of the Community, including, but not limited to items that may include or address the public storm sewer system and parking, conditional use permits (major or minor), and the joint development of the Land subject to the Declaration pursuant to Section 21-5.380 of the LUO; (ii) enter and Record as an encumbrance on the Land any declaration regarding improvements or use of the Property Declarant is required to impose on the Land in order to proceed with the development of the Land and/or (iii) impose on the Association obligations imposed on Land and the development of the Land by such licenses and permits, the declarations required to proceed with the improvement, use, or development of the Property, and the Unilateral Agreement (collectively these items and all such items of a substantially equivalent nature are described as the "licenses and permits"). To the extent that any such licenses or permits have not been issued to the Association, Declarant and its agents, employees, contractors, licensees, successors, mortgagees and assigns, reserve the right to transfer to the Association any and all obligations arising under or imposed in connection with such licenses or permits. Declarant hereby reserves the right (a) to enter and/or to amend such license or permit as may be required or issued by the DPP or other government agency or in respect of which Declarant has reserved such right in the applicable instrument, (b) to encumber the Land and the Association with the obligations thereunder arising, and (c) to modify Improvements to the Community to conform to the licenses and permits. In connection with such licenses and permits, the Association shall have the responsibility to comply at all times now and in the future with all requirements and obligations under such licenses and permits transferred to the Association or that encumber the Land, and all DPP regulations and any other applicable statutes, ordinances and rules and regulations of Federal, State or County agencies relating to the discharge, drainage and runoff of storm water and surface water, and their constituents, from the Community into the public storm sewer system. Neither the Association nor any Owner shall take any actions that may in any way undermine the Association's obligations to comply with the

foregoing requirements. Each Owner and the Association shall execute any and all documents required by Declarant in Declarant's sole discretion to transfer, if required, any applicable license or permit to the Association, including without limitation any license relative to discharge, drainage and runoff.

Without limitation of the foregoing, the rights reserved to Declarant by this Section include by way of example and not limitation, the right: (i) to provide open space(s) and a sidewalk for use by the public in the Community; (ii) to establish a private park area(s) at the Community; (iii) to designate one or more areas and/or to record against the Community one or more agreements with the Department of Land and Natural Resources of the State of Hawaii for purposes of addressing the preservation, establishment, location and/or relocation of any burial or historic sites or artifacts found during development of the Community and protected under the laws of the State of Hawaii; (iv) to amend the Community Declaration and to modify the Condominium Map and scope of any Limited Common Element or Common Element, including, without limitation, the recreational facilities and parking facilities; (v) to perform such additional offsite requirements as may be mandated, including, without limitation, road widening improvements and/or the provisioning of utilities, traffic signals, bus stops and/or stop signs; (vi) to modify building types, unit types (alter the number of rooms and Net Living/Floor Area, and location within the Community), the overall "product mix", the landscaping plan, available number of parking stalls (both Common Element and Limited Common Element parking stalls), or the size and/or location of any Commercial Unit or commercial structure; and (vii) to prohibit enclosure of the lanais to any Unit in the Community. The Association and each Owner shall indemnify and hold harmless Declarant, its successors and assigns, from and against any and all claims and demands for damages in connection with the Association's fulfillment of its obligations under transferred licenses and permits, including, without limitation, any storm sewer connection obligations.

8. Declarant's Reserved Right to Transfer Property to the Association. The Association shall accept title to any property, including any Improvements thereon and personal property transferred to the Association by Declarant, together with the responsibility to perform any and all duties associated therewith, which, upon conveyance or dedication to the Association, the Association shall maintain at its expense for the benefit of the Owners as provided in the Declaration. Property interests transferred to the Association by Declarant shall constitute Common Elements of the Community, which may include, without limitation, any landscaping, flowage, drainage, or utility easements (pending dedication of all or portions of the affected easement areas to the County), the adjacent roadways, parks, walkways, pathways, landscape buffers, any tradename, recreational or leisure equipment or facilities, any unassigned parking stall or parking stall reserved to Declarant under the terms of the Declaration, and may encompass fee simple title, easements, leasehold interests and licenses to use; provided, however, that any property or interest in property transferred to the Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Board, be transferred to the Association "as-is," "where-is," free and clear of all liens and encumbrances except for the following: (a) the lien for property taxes and assessments not then due and payable; (b) the terms of the Declaration and the terms of any Supplemental Declaration annexing the property to the Property; (c) easements, rights-of-way, reservations, covenants, conditions, restrictions and equitable servitudes or other non-financial encumbrances as Declarant in its discretion may deem appropriate; and (d) such financial encumbrances as may be reasonably accepted and assumed by the Association and specifically approved by resolution of the Board. Any property or interest in property transferred to the Association by Declarant shall not impose any unreasonable or special burden on the Association other than the normal burdens of ownership and maintenance of property and the

operation of facilities thereon; provided, however, such conveyance instrument may contain an indemnity of the Declarant by the Association. Each Owner, by accepting title to any portion of the Property and becoming an Owner, is deemed to approve and accept the acquisition by the Association of Common Elements as provided herein, and any Common Expenses which may relate thereto. The conveyance by Declarant may be without warranty of any kind except as aforesaid and without the benefit of escrow or title insurance, provided, however, the Association may purchase such title insurance, at the Association's expense, as the Association may wish. Upon transfer, the Association agrees to assume the obligations of the Declarant under any applicable leases, contracts, and other agreements. Furthermore, and notwithstanding anything to the contrary contained or implied in the Declaration, Declarant shall have the absolute right to convey to the Association the Common Element(s) and properties described in this Section. Without limitation of the foregoing, items that may be conveyed to the Association include parks, playgrounds, footpaths, including the "Village Walk", shown in Exhibit B-2 to the Unilateral Agreement, Village Walk Concept Plan A, dated August 19, 2004, attached to the Unilateral Agreement, designed to provide public pedestrian and vehicular connections to the regional drainage corridor as shown in the Updated Preliminary Land Use Plan dated August 19, 2004 (Exhibit B-1 to the Unilateral Agreement), which is described as the regional drainage channel in the Master Declaration ("**Regional Drainage Channel**"). Declarant reserves the right to designate the Village Walk as a Common Element of the Community and also has the power and right under the Master Declaration to require the Association the right to maintain, repair and care for the Village Walk.

9. Declarant's Reserved Rights Regarding Alterations and Repairs. Any other provision in the Declaration to the contrary notwithstanding, Declarant does hereby reserve the rights described in this Section unto Declarant, its successors and assigns. Prior to the later of (i) the time that all Units in the Community have been sold and the conveyance thereof Recorded, and (ii) the filing by Declarant of the "as built" verified statement (with plans, if applicable) required by Section 514B-34(a) of the Act, Declarant shall have the right, but not the obligation, to do the following:

(a) Configuration of Units, and Other Changes. Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit to make alterations in the Community (and to amend the Declaration and the Condominium Map accordingly) or change the configuration of, alter the number of rooms of, decrease or increase the size of, or change the location of any building or Unit (and the Limited Common Elements appurtenant thereto) in the Community which is not sold and the conveyance thereof Recorded, to alter the Common Elements to create Limited Common Element(s) benefitting a single or more than one Unit (inclusive of private yard areas), including without limitation by creating, expanding or reducing lanais, fenced areas, gates, pathways and sidewalks, utility placement locations. Declarant also reserves the right to (i) modify exterior elevations of buildings, exterior door and window types (open versus fixed, slider versus awning or otherwise) and the location of the same, roof types and materials, (ii) to change the size and location of lanais and lanai railings and coverings, parking stall locations and coverings, air conditioning unit locations, (iii) to add, delete, and/or relocate exterior stairways, (iv) to alter, building materials, exterior stairways and rails, walkways, air conditioning units (which reserved right shall include the right to (A) establish air conditioning guidelines respecting split air conditioning systems to the extent installed and/or (B) permit window air conditioning units subject to the Mehana Design Guidelines), fences and walls (installation and deletion of same) and utility locations from those reflected on the Condominium Map, (v) to substitute any included appliances as standard, and (vi) to create an enclosed and/or covered storage area. In addition to the foregoing, Declarant shall have the right to amend the Declaration, Bylaws and/or Community Rules to change the name of the

Community, alter the pet policy of the Community, and make such other changes to the Community Rules as Declarant desires.

(b) Right to Improve and Fix Location of Recreation Facilities and Barbeque Areas. Declarant shall have the absolute right to improve any area within the Community with parks, recreational facilities, which may include, but are not limited to, barbeque areas, tables, pathways, and play and/or exercise structures or facilities. These areas, facilities and structures may result in the creation of public activity zones that may negatively impact the Owner's use, views, privacy and enjoyment of their Unit. Upon the construction of such items, they shall be Common Elements of the Community.

10. Right of Inspection. Declarant reserves the right, but not the obligation, to make any inspection of the Common Elements, Limited Common Elements, or Units.

11. Declarant's Reserved Right to Permit Different Use of Units. Declarant reserves the right to change the designation and use (for a term of years or such period as Declarant elects, in its sole discretion) of any one or more or portion of the Live-Work Units and the Limited Common Elements appurtenant thereto such that they may be used solely as Residential Units. Declarant additionally reserves the right to change the designation and use (for a term of years or such period as Declarant elects, in its sole discretion) of any Live-Work Units and the Limited Common Elements appurtenant thereto to Designated Commercial Live-Work Units such that they may be used wholly as one or more Commercial Units, with or without prejudice to the Owner of such Live-Work Unit to use the Unit as a Residential Unit or a Live-Work Unit having mixed commercial and residential uses; provided such designation by Declarant shall in no event cause the total Net Living/Floor Area available for Commercial Use within the Community to exceed 20% of the total Net Living/Floor Area of all Units in the Community. Declarant further reserves the right to change the designation and use (for a term of years or such period as Declarant elects, in its sole discretion) of any one or more or portion of the Commercial Units or Residential Units and the Limited Common Elements appurtenant thereto to any other use classification as set forth in the Declaration. The rights reserved to Declarant under Section E.10 shall be exercised, if at all, with respect to each such Unit in respect of which the right is reserved prior to the Recordation of the conveyance of such Unit to an unrelated party. Declarant's reserved right under Section E shall be extinguished upon the conveyance of the affected Unit.

12. Alterations and Transfers of Common Interest. Declarant reserves and shall have the right to alter the common interest and easements appurtenant to each Unit, which otherwise shall have a permanent character, as noted in this Section. The common interest, voting rights and easements appurtenant to each Unit may be altered (diminished or increased) by a Recorded amendment to the Declaration: (a) as may be determined necessary by Declarant, without the consent of any party, to correct typographical or mathematical errors in the statement of such common interests, (b) filed by Declarant upon the alteration of the Community as permitted pursuant to the Declaration, and/or (c) upon the action or consent of all Owners of Units affected thereby, and the consent of the holders of any mortgage affecting such Units as shown in the Association's records of ownership, or who have given the Board notice of their interest.

13. Declarant's Right to Change Parking Stall Types and to Change Unit Numbering or Other Designations. Declarant reserves the right (a) to change the designation of compact and standard sized parking stalls, (b) to change covered and uncovered parking stalls from that

depicted on the Condominium Map, (c) to relocate or renumber parking stalls, (d) to reassign parking stalls designated as Limited Common Elements appurtenant to a Unit provided such Unit shall have assigned to it not less than one (1) parking stall, and (e) to amend the Declaration and Condominium Map as necessary or convenient to describe such changes. Any parking stall designated on the Condominium Map as a standard sized parking stall may be constructed as a compact size parking stall or vice versa.

14. Declarant's Right to Construct Community in Increments. Any other provision in the Declaration to the contrary notwithstanding, the Declarant shall have the right (but shall not be obligated) at its sole discretion under this Section to develop, construct, transfer, convey and/or sell the Units hereunder in legal phases or Increments on a building by building basis, or to abandon and not develop or construct such Increments as Declarant may determine in its sole and absolute discretion. For purposes of the Declaration the term "**Increment**" means any cluster or clusters of Units in this Community together with related facilities appurtenant thereto as reflected on the Condominium Map, developed and built on an incremental basis in accordance with this Section. The Community consists of those Units described in **Exhibit "D-2"**, that have been annexed into the Community. Declarant shall develop the Community in no more than sixteen (16) Increments, and has identified the Units comprising Increment 1 (being Units 501-506), and has annexed Increment 2 (being Units 101-108). Increment 3, being Units 201-208, is hereby incorporated and annexed into the Community. Before proceeding with development of future Increments, Declarant shall and hereby reserves the right to amend the Declaration to evidence the incorporation and annexation of the Units included in such future Increments within the Community. However, Declarant reserves the right to construct the remaining Increments 4-16 in Declarant's sole discretion, which discretion shall include, without limitation, determining the order of the Units constructed and the number of Unit to be included each Increment,. Upon the completion of any Unit within an Increment, the Declarant may, notwithstanding the incompleteness of any other Increment(s) or other Units in the pending Increment, but subject to the Community Documents and the provisions of the sales contract for the sale of a Unit in such Increment, thereupon transfer ownership of such Unit to a purchaser.

15. Completion of Increments and Community. In connection with, and to the extent necessary for the development and construction of the Community, other Units and/or Increments following the transfer of ownership of any Unit to an individual or entity other than the Declarant, the Declarant shall have the right to enter upon and have an easement over all portions of the Community and enter and use the same for all purposes reasonably necessary for or useful to constructing and completing all Increments in accordance with the Declaration and the Condominium Map without any obligation to reimburse the Association for any cost or benefit attribute to the exercise of Declarant's rights reserved under this **Section E**. Without limitation of the foregoing, Declarant reserves and shall have the right to enter upon, use, remove, replace, add to, or otherwise alter the Common Elements and the Limited Common Elements of the Community and to do all things reasonably necessary, desirable or useful for designing, developing, constructing or completing any additional Increment to the Community, connecting any such additional Increment to the Community Access Drive(s) and utility installations of the Community, and selling the Units contained within any such additional Increment, including, but not limited to, the right to consolidate any parcel(s) of land covered hereby with any other parcel(s) of land in connection with the addition of an Increment; provided that the exercise of the rights granted herein shall not cause any permanent or avoidable interruption in the service of utilities to the property, and provided further that any person exercising such rights shall use reasonable efforts, without additional cost to the Declarant and consistent with maintaining the progress of the design, development, construction, completion and sale of the additional Increment, to minimize interference with the Owners' use and enjoyment of the property.

16. Declarant's Reserved Rights Regarding Incremental Development. The rights reserved to the Declarant in Sections E.13 and E.14, above, are subject to the following terms and conditions:

(a) Construction shall be in accordance with complete plans and specifications therefor prepared by a licensed architect or engineer and in accordance with the Declaration and the Condominium Map (as the same may be amended pursuant to the Declaration), and each Increment shall be generally consistent with the other Increments in terms of quality of construction;

(b) No plans and specifications shall require the alteration or demolition of any existing Units or Limited Common Elements, except that the Declarant shall have the right to utilize, relocate and realign existing, and/or to develop additional, central and appurtenant installations for services to the additional Units for electricity, hot and cold water and other applicable utilities and services and, when applicable, to add, delete, relocate, realign, designate, cancel and grant easements and rights of way over, under and on the Common Elements as necessary and desirable in connection therewith; provided that the same shall not cause an interruption, other than a temporary interruption, in the service of such utilities to any other part of the Community;

(c) Construction of each Increment shall be at the Declarant's expense and shall be completed within five (5) years of commencement thereof, subject to delays beyond the control of the Declarant;

(d) During the entire course of such construction, the Declarant will cause to be maintained at its expense builder's all risk insurance in an amount not less than the estimated cost of construction. The Association may be named as an additional insured and evidence of such insurance may be deposited with the Board of Directors;

(e) Prior to commencement of such construction, the Declarant may, in Declarant's sole discretion, deposit with the Association evidence of a payment and performance bond or an irrevocable letter of credit issued by a bank, material house or other entity authorized to do business in the State of Hawaii, naming the Association as a co obligee, in an amount not less than one hundred percent (100%) of the cost of construction as estimated by the Declarant, or in lieu thereof a guarantee issued by Declarant against mechanic's and materialmen's liens;

(f) The Declarant shall not in any way encumber individual Units no longer owned by the Declarant in connection with the financing of construction of Increments, provided that the Declarant may assign, by way of security, its interest in the Units owned by the Declarant; and

(g) Promptly upon the completion of each Increment, Declarant shall duly Record and file of record an amendment to the Declaration (which may be titled "Supplemental Declaration of Annexation") evidencing the incorporation and annexation of the completed Increment, without the approval, consent or joinder of, or notice to, any person or group of persons, including the Association, any Unit Owner or any mortgagee, lienholder, Unit purchaser or any other person who may have an interest in the Community, together with a complete set of floor plans of the Community as so altered, certified, if required, as built by a licensed, registered architect or professional engineer or verified as complete by Declarant in the form of a Declarant's certificate of completion (a "Declarant's Certificate of Completion").

17. Amendment to Declaration and Condominium Map. Declarant shall have the absolute right, notwithstanding the lease, sale, or conveyance of any Unit to exercise the rights herein reserved to Declarant and to amend the Declaration and the Condominium Map as necessary or convenient to describe any new Improvements constructed on the Property in accordance with the Declaration and to make such amendments to the Declaration as are appropriate in accordance with this Section and Section E of the Declaration.

18. Assignment of Declarant's Rights. The rights of the Declarant under this Section shall extend to the Declarant and its respective successors and assigns. Without limitation of the foregoing, Declarant may, by Recorded instruments or by Supplemental Declaration, assign or partially assign, while retaining equivalent rights to Declarant, to any assignee, including without limitation the Association, any one or more of the rights and easements reserved to Declarant under this Section and Section E of the Declaration and its subparts (or otherwise reserved to Declarant in the Declaration).

19. Declarant's Reserved Right to Assign Parking Stalls to Unit. Declarant may reserve to itself parking stalls in the Community (sometimes the "**Declarant Reserved Stalls**") and further reserves to itself the right to amend the Declaration to denominate such Declarant Reserved Stalls and/or establish spatial Units consisting of one or more of the foregoing parking stalls. Declarant further reserves the right to amend the Declaration in any manner to assign additional parking stalls that are reserved to the Declarant to any Unit as appurtenant Limited Common Element(s) to such Unit as Declarant in its sole discretion determines. Further Developer may assign such stalls to any Unit and reserves all right of use and access to such stalls together with the right to sell the stalls and/or transfer the stalls to another Unit. The amendments described in this Section are hereby specifically declared not to constitute a material amendment of the Declaration or, when appropriate, the Condominium Map.

20. Declarant's Reserved Right to Modify Community to Comply with Law. Declarant shall have the reserved right, to effect such modifications to the Units and Common Elements in the Community and/or to execute, record and deliver any amendments to the Declaration, the Condominium Map as well as the Bylaws and rules and regulations promulgated thereunder, as may be necessary or required to effect compliance or conformance by the Community, the Association, or by Declarant with laws which apply to the Community, including, without limitation, the Fair Housing Act, as amended, 42 U.S.C. §§ 3601 et seq., including any and all rules and regulations promulgated thereunder, and the Americans With Disabilities Act, as amended, 42 U.S.C. §§ 12101 et seq., including any and all rules and regulations promulgated thereunder, or to make the Units eligible for financing programs of federally regulated mortgage insurance or purchasing oversight programs. Without limitation, Declarant may amend the Declaration (and, when appropriate, the Condominium Map) in any manner required to retrofit guest parking stalls, including without limitation any adaptable parking stall, so they are suited for use by persons with disabilities and to assign such stalls as appurtenant Limited Common Elements to any one or more of the Units intended for use by persons with disabilities upon substitution therefor of alternate guest parking stall(s). Such stall assignment may be made to Units, the Owners of which Declarant, in its sole judgment, determines require a parking stall accessible to persons with disabilities. Such reassignment is hereby specifically declared not to constitute a material amendment of the Declaration or, when appropriate, the Condominium Map. All costs of such reassignment shall be borne as determined by Declarant. Notwithstanding the foregoing, Declarant also reserves the right, but does not hereby undertake any obligation, to interchange guest parking stalls and the disabled guest parking stalls to accommodate Unit Owners in need of such parking. The rights of Declarant under this Section may be assigned to the Association.

21. Reserved Right to Control Association for Limited Period. Declarant shall have the reserved right to control the Association in accordance with Section 514B-106(d) of the Act, during which time Declarant, or persons designated by Declarant, may appoint and remove the officers and members of the Board of Directors. Such period of control of the Association by Declarant (the "Control Period") shall terminate no later than the earlier of:

(a) Sixty (60) days after conveyance of seventy-five percent (75%) of the common interest appurtenant to Units to Owners other than Declarant or an affiliate of Declarant;

(b) Two (2) years after Declarant has ceased to offer Units for sale in the ordinary course of business;

(c) Two (2) years after any right to add new Units was last exercised; or

(d) The day Declarant, after giving written notice to Unit Owners, Records an instrument voluntarily surrendering all rights to control activities of the Association.

Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Control Period, but in such event Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Board, as described in a Recorded instrument executed by Declarant, be approved by Declarant before they become effective, provided, however, that during the Control Period (i) Declarant must provide a copy of all amendments to the Department of Veterans Administration (the "VA"), and (ii) the Association may not make any material amendments or take any extraordinary actions as described in VA Pamphlet 26-7 revised, as may be applicable, without the approval of VA.

Until such time as the Declarant has turned over administration of the Community to the Association, Declarant shall have the right to amend the Bylaws.

22. Declarant's Right to Designate Units as Affordable Housing. Declarant shall have the right, but not the obligation to designate certain Units as affordable housing (the "**Affordable Units**") for owner-occupants meeting the income qualification eligibility requirements of the DPP and only in accordance with and to satisfy certain affordable housing conditions mandated by DPP pursuant to the Unilateral Agreement and Declaration for Conditional recorded as Document No. 3195643 adopted as part of the City in County of Honolulu Ordinance No. 04-46. Affordable Units will be subject to a four (4) year or eight (8) year buy-back restriction benefiting the City and County of Honolulu that limits the lease, resale, or rental of the Affordable Unit during the restriction period. The applicable buy-back restriction will be determined by the income of the purchaser. Declarant reserves the right to change the terms of the affordable housing program it offers in Declarant's sole discretion. Declarant reserves the right to develop, market and sell as many Affordable Units in the Community as Declarant desires. Each Owner waives any and all claims arising under the presence of Affordable Units, or lack thereof, in the Community. The Affordable Units shall be as follows: 601-605, inclusive, 701-705, inclusive, 1001-1005, inclusive, 1101-1105, inclusive, 1501-1505, inclusive, and 1601-1605, inclusive. Declarant reserves the right to terminate the designation of any unsold Affordable Unit and remove any Affordable Unit from the affordable housing program. Additionally, Declarant reserves all rights of enforcement and recourse against the Owner of an Affordable Unit available under Chapter 5 of the Department of Planning and Permitting City and County of Honolulu State of Hawaii Amendment of the Affordable Housing

Rules for Unilateral Agreements adopted February 12, 2010, in the event of a failure of the Owner of an Affordable Unit to comply with the requirements arising under the applicable buy-back restriction, including, without limitation, by seeking financial recourse from such Owner. The buyback restrictions shall be automatically extinguished and shall not attach in subsequent transfers of title when a mortgage holder or other party becomes the owner of an Affordable Unit pursuant to a mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced.

23. Declarant's Exercise of Rights. Each of the rights reserved to Declarant in this Section and Section E, Section G and Section R or otherwise in the Declaration may be exercised by Declarant or its authorized representatives in their respective sole and absolute discretion and without being required to obtain the consent or joinder of, or provide notice to, any Person or group of Persons, including the Association, any Unit Owner or any mortgagee, lien holder, any Unit purchaser, or any other person who may have an interest in the Community or in any Unit. Pursuant to Section X.1 of the Declaration, each and every Unit Owner by acceptance of a Deed for a Unit and/or acknowledgement of the Declaration, appoints Declarant, with full right of substitution, as the attorney in fact of such Owner or acquiring party to execute such documents and to do such things on such Owner's or acquiring party's behalf; and such appointment, being coupled with an interest, shall be irrevocable for the specific period(s) of Declarant's reserved rights as set forth in the Declaration and shall not be affected by the disability of any such Owner or acquiring party.

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THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL OF THE RIGHTS RESERVED BY THE DEVELOPER UNDER THE CONDOMINIUM DOCUMENTS CONTAINED IN THE DECLARATION, BY LAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF SUCH RESERVED RIGHTS, PURCHASER CAN USE THIS SUMMARY OF SUCH RESERVED RIGHTS, PURCHASER SHOULD REFER TO THE CONDOMINIUM DECLARATION TO DETERMINE THE ACTUAL RIGHTS RESERVED BY THE DEVELOPER. IF ANY CONFLICT OR DIFFERENCES EXISTS BETWEEN THIS SUMMARY AND THE CONDOMINIUM DECLARATION, THE CONDOMINIUM DECLARATION WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

## EXHIBIT P

### Section 4.2 -- Estimate of the Initial Maintenance Fees

The Estimated Maintenance Fee Disbursements for Awakea at Mehana have been compiled by Hawaiiana Management Company, a licensed property manager, assuming that all units in the Community as reflected on the Condominium Map are constructed. Although the property manager makes every effort to estimate the actual cost of operation, certain budget items, especially energy costs, labor costs, and insurance, may change. The Buyer is aware that such amounts are only estimates and may change for reasons beyond the control of Developer, and the Buyer hereby specifically accepts and approves any such changes. The Buyer is also aware that such estimates do not include the Buyer's obligation for payment of real property taxes. The Buyer understands that such estimates are not intended to be and do not constitute any representation or warranty by the Developer, including but not limited to any representation or warranty as to the accuracy of such estimates. Buyer understands that Developer has not independently confirmed the accuracy or content of the estimates prepared by the licensed independent managing agent. Further, the Developer advises that costs and expenses of maintenance and operation of a condominium community are very difficult to estimate initially and even if such maintenance charges have been accurately estimated, such charges will tend to increase in an inflationary economy and as the improvements age. Maintenance charges can vary depending on services desired by unit owners and may increase significantly depending on the level of services eventually selected by the Association's Board of Directors. The Buyer should examine the maintenance charges schedule to see what services are included in the schedule and address these issues with its Board upon its formation. Buyers should also be aware that the estimates provided are as of the date reflected in the Managing Agent's certification and do not reflect the actual charges that may be incurred upon the formation of the Association and the actual contracting for such services such as insurance and maintenance, etc.

By purchasing a Unit at Awakea at Mehana, the Buyer will become a member of the Mehana Master Association and be required to pay membership dues to that Association. The Association will collect this fee in addition to the Buyer's monthly maintenance fee and pay the same to the Master Association.

The Developer intends to pay all of the actual common expenses for the units and the unit owner shall not be obligated for the payment of the owner's share of the common expenses until such time as the Developer causes a 30 day advance written notice to be sent to the Owners that, after a specified date, the unit owners shall be obligated to pay for the portion of common expenses that is allocated to their respective units. The developer shall mail the written notice to the owners, the association, and the managing agent, if any, at least thirty days before the specified date.

The estimate of the initial annual maintenance fees and monthly estimated Maintenance fees is attached hereto.

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THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE ESTIMATE OF THE INITIAL MAINTENANCE FEES CONTAINED IN THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF SUCH RESERVED RIGHTS, PURCHASER CAN USE THIS SUMMARY OF SUCH RESERVED RIGHTS, PURCHASER SHOULD REFER TO THE DECLARATION TO DETERMINE THE ACTUAL RIGHTS RESERVED BY THE DEVELOPER.

IF ANY CONFLICT OR DIFFERENCES EXISTS BETWEEN THIS SUMMARY AND THE DECLARATION, THE DECLARATION WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

**CERTIFICATE**

I, the undersigned, duly sworn on oath, depose and affirm as follows:

1. I am the Senior Vice President for Hawaiiana Management Company, Ltd., a Hawaii corporation, designated by the Developer of the Awakea at Mehana condominium project (the "Project") to act as the Managing Agent for the management and administration of the Project.

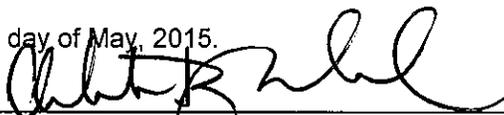
2. Attached hereto is a true and correct copy of the projected budget for the Project. The estimates contained therein, including the maintenance fee assessments and disbursements, are based upon and in reliance on the assumptions, expense and income data provided by the Developer along with information gathered by the Managing Agent from projects of comparable size and character. The estimated figures do not account for inflation, market adjustments, future utility rate changes, future insurance premium rate changes or other unanticipated events, including but not limited to, acts of government, acts of God, terrorism or war. In addition, the projected budget is based upon and in reliance on discussions with the Developer.

3. I hereby certify that the breakdown of the annual maintenance charges and the monthly estimated cost for each unit in the Project, as attached hereto and hereby incorporated herein by reference, were determined in accordance with Section 514B-148 of the Hawaii Revised Statutes and Chapter 107 of the Hawaii Administrative Rules, and that the Managing Agent made a good faith effort to calculate such estimates for the one-year period commencing May 2015, based on generally accepted accounting principles.

4. As permitted pursuant to Section 514B-148(b), new associations need not collect estimated reserves until the fiscal year which begins after the association's first annual meeting. The Developer has not conducted a reserve study for the Project. The budget amount for Reserves is an estimate only.

5. The Budget has been prepared on a cash basis.

DATED: Honolulu, Hawaii, this 12<sup>th</sup> day of May, 2015.

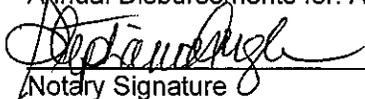
  
Name: DEBORAH R. BALMILERO  
Title: SENIOR VICE PRESIDENT

Subscribed and sworn to before me  
this 12<sup>th</sup> day of May, 2015.

State of Hawaii  
City & County of Honolulu

Date: May 12, 2015 # of Pages: 6

Doc. Description: Certificate of Managing Agent & Estimated  
Annual Disbursements for: Awakea at Mehana

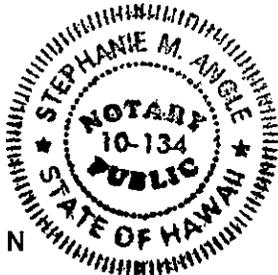
 5/12/2015  
Notary Signature

Name: Stephanie M. Angle

No. & Expiration: 10-134

6/13/2018

First Circuit, State of Hawaii



**NOTARY CERTIFICATION**

# Estimated Fee Disbursement

Utilities and Services	Monthly Paid by All	Monthly Commercial Type II Only	Annual Paid by All	Annual Commercial Type II Only
Electricity	\$1,500.00		\$18,000.00	
TV Cable	\$0.00		\$0.00	
Refuse	\$3,000.00		\$36,000.00	
Water (common area irrigation)	\$2,000.00		\$24,000.00	
Sewer (submetered)	\$0.00		\$0.00	
Telephone	\$520.00		\$6,240.00	
Maint, Repairs, Supplies	\$200.00		\$2,400.00	
Common Area Cleaning & Mtnc	\$1,500.00	\$750.00	\$18,000.00	\$9,000.00
Grounds	\$6,000.00		\$72,000.00	
Roof/Gutter Maintenance	\$300.00		\$3,600.00	
Dryer Duct Cleaning	\$800.00		\$9,600.00	
Elevator	\$1,000.00		\$12,000.00	
Fire Systems	\$600.00		\$7,200.00	
Equipment	\$400.00		\$4,800.00	
Pest Control	\$500.00		\$6,000.00	
Window Washing	\$450.00		\$5,400.00	
Electrical/Lighting	\$550.00		\$6,600.00	
Plumbing	\$650.00		\$7,800.00	
Miscellaneous Expense	\$450.00		\$5,400.00	
Shared Road Maintenance	\$200.00		\$2,400.00	
<b>Professional Services</b>				
Management	\$2,000.00		\$24,000.00	
Audit/Tax fees	\$100.00		\$1,200.00	
Legal Fees	\$850.00		\$10,200.00	
Design Review/Cov Enforcement	\$650.00		\$7,800.00	
<b>Administrative</b>				
Admin. Services/Supplies	\$600.00		\$7,200.00	
Meeting Expenses	\$50.00		\$600.00	
Newsletter/Website	\$50.00		\$600.00	
GET/Other	\$40.00		\$480.00	
Condo Registration	\$50.00		\$600.00	
<b>Insurance</b>				
Master Policy	\$3,600.00		\$43,200.00	
Comp. General Liability	\$155.00		\$1,860.00	
Umbrella	\$84.00		\$1,008.00	
Directors and Officers	\$204.00		\$2,448.00	
Bond	\$75.00		\$900.00	
<b>SUBTOTAL</b>	<b>\$29,128.00</b>	<b>\$750.00</b>	<b>\$349,536.00</b>	<b>\$9,000.00</b>
<b>Reserves</b>	<b>\$3,243.00</b>	<b>\$75.00</b>	<b>\$38,916.00</b>	<b>\$900.00</b>
<b>TOTAL</b>	<b>\$32,371.00</b>	<b>\$825.00</b>		<b>\$9,900.00</b>

## Estimated Maintenance Fees

Awakea at Mehana  
(124 units)

Unit Type	Unit No.	% Common Interest	Monthly Fee ALL	Bldg Type II Comm. Unit Share (1)	Bldg Type II Add'l Fee for Comm. Units only therein (1)	Monthly Total	Yearly Total
A	103	0.72816%	\$235.71			\$235.71	\$2,828.55
A	203	0.72816%	\$235.71			\$235.71	\$2,828.55
A	303	0.72816%	\$235.71			\$235.71	\$2,828.55
A	1203	0.72816%	\$235.71			\$235.71	\$2,828.55
A	1303	0.72816%	\$235.71			\$235.71	\$2,828.55
A	1403	0.72816%	\$235.71			\$235.71	\$2,828.55
A1	401	0.72816%	\$235.71			\$235.71	\$2,828.55
A1	501	0.72816%	\$235.71			\$235.71	\$2,828.55
B	106	0.72816%	\$235.71			\$235.71	\$2,828.55
B	206	0.72816%	\$235.71			\$235.71	\$2,828.55
B	306	0.72816%	\$235.71			\$235.71	\$2,828.55
B	404	0.72816%	\$235.71			\$235.71	\$2,828.55
B	504	0.72816%	\$235.71			\$235.71	\$2,828.55
B	1206	0.72816%	\$235.71			\$235.71	\$2,828.55
B	1306	0.72816%	\$235.71			\$235.71	\$2,828.55
B	1405	0.72816%	\$235.71			\$235.71	\$2,828.55
C	105	0.94233%	\$305.04			\$305.04	\$3,660.50
C	205	0.94233%	\$305.04			\$305.04	\$3,660.50
C	305	0.94233%	\$305.04			\$305.04	\$3,660.50
C	403	0.94233%	\$305.04			\$305.04	\$3,660.50
C	503	0.94233%	\$305.04			\$305.04	\$3,660.50
C	1205	0.94233%	\$305.04			\$305.04	\$3,660.50
C	1305	0.94233%	\$305.04			\$305.04	\$3,660.50
C	1405	0.94233%	\$305.04			\$305.04	\$3,660.50
C1/C1R	102	0.94233%	\$305.04			\$305.04	\$3,660.50
C1/C1R	107	0.94233%	\$305.04			\$305.04	\$3,660.50
C1/C1R	202	0.94233%	\$305.04			\$305.04	\$3,660.50
C1/C1R	207	0.94233%	\$305.04			\$305.04	\$3,660.50
C1/C1R	302	0.94233%	\$305.04			\$305.04	\$3,660.50
C1/C1R	307	0.94233%	\$305.04			\$305.04	\$3,660.50
C1/C1R	405	0.94233%	\$305.04			\$305.04	\$3,660.50
C1/C1R	505	0.94233%	\$305.04			\$305.04	\$3,660.50
C1/C1R	1202	0.94233%	\$305.04			\$305.04	\$3,660.50
C1/C1R	1207	0.94233%	\$305.04			\$305.04	\$3,660.50
C1/C1R	1302	0.94233%	\$305.04			\$305.04	\$3,660.50
C1/C1R	1307	0.94233%	\$305.04			\$305.04	\$3,660.50
C1/C1R	1402	0.94233%	\$305.04			\$305.04	\$3,660.50
C1/C1R	1407	0.94233%	\$305.04			\$305.04	\$3,660.50
D	104	1.02799%	\$332.77			\$332.77	\$3,993.25
D	204	1.02799%	\$332.77			\$332.77	\$3,993.25
D	304	1.02799%	\$332.77			\$332.77	\$3,993.25
D	402	1.02799%	\$332.77			\$332.77	\$3,993.25
D	502	1.02799%	\$332.77			\$332.77	\$3,993.25
D	1204	1.02799%	\$332.77			\$332.77	\$3,993.25
D	1304	1.02799%	\$332.77			\$332.77	\$3,993.25
D	1404	1.02799%	\$332.77			\$332.77	\$3,993.25
D1/D1R	101	1.02799%	\$332.77			\$332.77	\$3,993.25

## Estimated Maintenance Fees

Awakea at Mehana  
(124 units)

Unit Type	Unit No.	% Common Interest	Monthly Fee ALL	Bldg Type II Comm. Unit Share (1)	Bldg Type II Add'l Fee for Comm. Units only therein (1)	Monthly Total	Yearly Total
D1/D1R	108	1.02799%	\$332.77			\$332.77	\$3,993.25
D1/D1R	201	1.02799%	\$332.77			\$332.77	\$3,993.25
D1/D1R	208	1.02799%	\$332.77			\$332.77	\$3,993.25
D1/D1R	301	1.02799%	\$332.77			\$332.77	\$3,993.25
D1/D1R	308	1.02799%	\$332.77			\$332.77	\$3,993.25
D1/D1R	406	1.02799%	\$332.77			\$332.77	\$3,993.25
D1/D1R	506	1.02799%	\$332.77			\$332.77	\$3,993.25
D1/D1R	1201	1.02799%	\$332.77			\$332.77	\$3,993.25
D1/D1R	1208	1.02799%	\$332.77			\$332.77	\$3,993.25
D1/D1R	1301	1.02799%	\$332.77			\$332.77	\$3,993.25
D1/D1R	1308	1.02799%	\$332.77			\$332.77	\$3,993.25
D1/D1R	1401	1.02799%	\$332.77			\$332.77	\$3,993.25
D1/D1R	1408	1.02799%	\$332.77			\$332.77	\$3,993.25
E	814	0.72816%	\$235.71			\$235.71	\$2,828.55
E	824	0.72816%	\$235.71			\$235.71	\$2,828.55
E	914	0.72816%	\$235.71			\$235.71	\$2,828.55
E	924	0.72816%	\$235.71			\$235.71	\$2,828.55
F	813	0.72816%	\$235.71			\$235.71	\$2,828.55
F	823	0.72816%	\$235.71			\$235.71	\$2,828.55
F	913	0.72816%	\$235.71			\$235.71	\$2,828.55
F	923	0.72816%	\$235.71			\$235.71	\$2,828.55
G	811	0.85666%	\$277.31			\$277.31	\$3,327.71
G	821	0.85666%	\$277.31			\$277.31	\$3,327.71
G	911	0.85666%	\$277.31			\$277.31	\$3,327.71
G	921	0.85666%	\$277.31			\$277.31	\$3,327.71
G1	812	0.85666%	\$277.31			\$277.31	\$3,327.71
G1	822	0.85666%	\$277.31			\$277.31	\$3,327.71
G1	912	0.85666%	\$277.31			\$277.31	\$3,327.71
G1	922	0.85666%	\$277.31			\$277.31	\$3,327.71
H	815	0.85666%	\$277.31			\$277.31	\$3,327.71
H	825	0.85666%	\$277.31			\$277.31	\$3,327.71
H	915	0.85666%	\$277.31			\$277.31	\$3,327.71
H	925	0.85666%	\$277.31			\$277.31	\$3,327.71
H1	816	0.85666%	\$277.31			\$277.31	\$3,327.71
H1	826	0.85666%	\$277.31			\$277.31	\$3,327.71
H1	916	0.85666%	\$277.31			\$277.31	\$3,327.71
H1	926	0.85666%	\$277.31			\$277.31	\$3,327.71
J/JR	601	0.72816%	\$235.71			\$235.71	\$2,828.55
J/JR	605	0.72816%	\$235.71			\$235.71	\$2,828.55
J/JR	701	0.72816%	\$235.71			\$235.71	\$2,828.55
J/JR	705	0.72816%	\$235.71			\$235.71	\$2,828.55
J/JR	1001	0.72816%	\$235.71			\$235.71	\$2,828.55
J/JR	1005	0.72816%	\$235.71			\$235.71	\$2,828.55
J/JR	1101	0.72816%	\$235.71			\$235.71	\$2,828.55
J/JR	1105	0.72816%	\$235.71			\$235.71	\$2,828.55
J/JR	1501	0.72816%	\$235.71			\$235.71	\$2,828.55
J/JR	1505	0.72816%	\$235.71			\$235.71	\$2,828.55

## Estimated Maintenance Fees

Awakea at Mehana  
(124 units)

Unit Type	Unit No.	% Common Interest	Monthly Fee ALL	Bldg Type II Comm. Unit Share (1)	Bldg Type II Add'l Fee for Comm. Units only therein (1)	Monthly Total	Yearly Total
J/JR	1601	0.72816%	\$235.71			\$235.71	\$2,828.55
J/JR	1605	0.72816%	\$235.71			\$235.71	\$2,828.55
K/KR	602	0.72816%	\$235.71			\$235.71	\$2,828.55
K/KR	604	0.72816%	\$235.71			\$235.71	\$2,828.55
K/KR	702	0.72816%	\$235.71			\$235.71	\$2,828.55
K/KR	704	0.72816%	\$235.71			\$235.71	\$2,828.55
K/KR	1002	0.72816%	\$235.71			\$235.71	\$2,828.55
K/KR	1004	0.72816%	\$235.71			\$235.71	\$2,828.55
K/KR	1102	0.72816%	\$235.71			\$235.71	\$2,828.55
K/KR	1104	0.72816%	\$235.71			\$235.71	\$2,828.55
K/KR	1502	0.72816%	\$235.71			\$235.71	\$2,828.55
K/KR	1504	0.72816%	\$235.71			\$235.71	\$2,828.55
K/KR	1602	0.72816%	\$235.71			\$235.71	\$2,828.55
K/KR	1604	0.72816%	\$235.71			\$235.71	\$2,828.55
L	603	0.72816%	\$235.71			\$235.71	\$2,828.55
L	703	0.72816%	\$235.71			\$235.71	\$2,828.55
L	1003	0.72816%	\$235.71			\$235.71	\$2,828.55
L	1103	0.72816%	\$235.71			\$235.71	\$2,828.55
L	1503	0.72816%	\$235.71			\$235.71	\$2,828.55
L	1603	0.72816%	\$235.71			\$235.71	\$2,828.55
Commercial 1	801	0.39255%	\$127.07	10.8270%	\$89.32	\$216.40	\$2,596.74
	901	0.39255%	\$127.07	10.8270%	\$89.32	\$216.40	\$2,596.74
Commercial 2	802	0.35978%	\$116.46	9.9230%	\$81.86	\$198.33	\$2,379.95
	902	0.35978%	\$116.46	9.9230%	\$81.86	\$198.33	\$2,379.95
Commercial 3	803	0.33153%	\$107.32	9.1440%	\$75.44	\$182.76	\$2,193.09
	903	0.33153%	\$107.32	9.1440%	\$75.44	\$182.76	\$2,193.09
Commercial 4	804	0.35978%	\$116.46	9.9230%	\$81.86	\$198.33	\$2,379.95
	904	0.35978%	\$116.46	9.9230%	\$81.86	\$198.33	\$2,379.95
Commercial 5	805	0.36924%	\$119.53	10.1830%	\$84.01	\$203.54	\$2,442.44
	905	0.36924%	\$119.53	10.1830%	\$84.01	\$203.54	\$2,442.44
		100.00000%	\$32,371.00	100.0000%	\$825.00	\$33,196.00	\$398,352.00

<b>Bldg Type II Comm. Units</b>		<b>3.62576%</b>					
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(1) Represents additional expense applicable only to the Commercial Units within Building Type II (i.e., for maintenance and regular stocking and cleaning of the bathroom on the ground floor), which expenses are allocated and shared among all such commercial Units on a pro rata basis (proportionate to the common interests appurtenant to each such unit).

The estimated initial monthly maintenance fee assessments do not include mandatory dues payable to the Mehana at Kapolei Community Association. The current anticipated fee is \$25.00 per unit per month, and the fee is expected to increase to at least \$45.00 per unit per month when certain Mehana common facilities are available to residents. Depending on the scope of the Mehana Association's responsibility for the maintenance of the Kapolei Regional Drainage Facilities, this cost may increase. Pending delivery of such facilities, Master Association fees may be increased at any time to \$30.00 per month or such other amount that the Master Association determines in accordance with the Master Association. The Association will collect this fee in addition to the Unit Owner's monthly maintenance fee and pay the same to the Master Association.

## Estimated Maintenance Fees

Unit Type	Unit No.	% Common Interest	Monthly Fee ALL	Bldg Type II Comm. Unit Share (1)	Bldg Type II Add'l Fee for Comm. Units only therein (1)	Monthly Total	Yearly Total
<p>Additionally, the estimated initial monthly maintenance fee assessments do not include unit water and sewer usage. Unit water and sewer usage will be submetered (all Residential Units will be submetered except for Building Type II Residential Units with respect to which a submeter will be installed to each such building and Building Type II Residential Unit Owners will bear responsibility for an equal share (i.e., 1/12th share) of water and sewer usage for such building) and billed as a limited common element expense to each Unit Owner. The limited common element expense for water and sewer usage will appear as a separate line item on each Unit Owner's monthly maintenance fee bill. In addition to the water and sewer usage charges, a fee of \$10 per unit per month will be added to each Unit Owner's monthly bill to off-set the cost of meter reading and billings services for water and sewer. The Association will collect these fees in addition to the Unit Owner's monthly maintenance fee and pay the same to the Board of Water Supply.</p>							

## EXHIBIT Q

### Section 5.1 -- Summary of Pertinent Provisions of Sales Contract

The Fee Simple Unit Sales Agreement (the "**Sales Contract**" or "**Purchase Agreement**") contains the price and other terms and conditions under which a purchaser will agree to buy a Unit in the Community. Among other things, the Sales Contract states:

- (a) The total purchase price, method of payment and additional sums which must be paid in connection with the purchase of a Unit.
- (b) That the purchaser acknowledges having received and read the public report for the Community prior to signing the Sales Contract.
- (c) That the Developer makes no representations concerning rental of a Unit, income or profit from a Unit, or any other economic benefit to be derived from the purchase of a Unit.
- (d) That the Sales Contract may be subordinate to the lien of a construction lender.
- (e) The Sales Contract provides that it shall not be construed as a present transfer of any rights or of any interest in the Unit, but rather states that it is an agreement to transfer in the future. By execution of the Sales Contract, the Purchaser agrees to waive, relinquish and subordinate the priority or superiority of any lien or other legal or equitable interest arising under the Sales Contract in favor of the lien or charge on the Community of the security interests of the Lender, including but not limited to any lien, mortgage or charge securing a loan made to finance the acquisition of the land and the costs of construction (if applicable) and any and all advances therefore until the filing of the Deed.
- (f) That the purchaser's money will be held in escrow, under the terms of the Escrow Agreement.
- (g) Requirements relating to the purchaser's financing of the purchase of a Unit.
- (h) The Sales Contract provides that Purchaser may purchase upgrades, including modifications or additions to, or upgrades of, the standard fixtures, appliances and/or layout of the Unit to be made by Seller, pursuant to an option addendum attached to the Sales Contract upon Purchaser's execution of the Sales Contract. Purchaser must make deposits for the upgrades as required by Seller.
- (i) That the Unit and the Community will be subject to various other legal documents which the purchaser should examine, and that the Developer may change these documents under certain circumstances.
- (j) That, except to the extent of a limited warranty in form attached to this Public Report, the Developer makes no warranties regarding the Unit, the Community or anything installed or contained in the Unit or the Community.
- (k) That the Community will be subject to ongoing construction and sales activities which may result in certain annoyances to the purchaser.

- (l) That the purchaser must close the purchase at a certain date and pay closing costs, in addition to the purchase price.
- (m) That the Developer has reserved certain rights and powers relating to the Community and the purchaser acknowledges and consents to the exercise of such rights and powers.
- (n) That except under certain circumstances, as set forth in the Sales Contract, all interest on deposits toward the purchase price shall be the property of the Developer.
- (o) If the purchaser defaults, Developer may retain purchaser's deposits and bring an action against purchaser. If the Developer defaults, purchasers may bring an action against Developer. All actions are subject to the rules of the Dispute Prevention Resolution, Inc., as provided in the Sales Contract.
- (p) Buyer may not at any time assign its rights or obligations under the Purchase Agreement.
- (q) Any assignment of the Sales Contract is void and of no legal effect.
- (r) The Sales Contract provides that any dispute by or between Seller and Purchaser arising out of or incident to the Sales Contract, or the development or management of the Community, the sale of the Unit or the use or occupancy thereof, or any other aspect of the relationship between Seller and Purchaser regarding the Community which is raised or otherwise asserted before or after Closing shall be submitted to mediation and, if necessary, to arbitration in accordance with the terms, conditions and procedures set forth in the Sales Contract.

The Sales Contracts contains various other important provisions relating to the purchase of a Unit in the Community. Purchasers and prospective purchasers should carefully read the specimen Sales Contracts on file with the Real Estate Commission. Unless otherwise defined herein, all capitalized terms used herein shall have the same meanings given them under the Purchase Agreement.

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THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS-CONTAINED IN THE PURCHASE AGREEMENT. WHILE A BUYER CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF BUYER'S RIGHTS AND OBLIGATIONS UNDER THE PURCHASE AGREEMENT, BUYER MUST REFER TO THE PURCHASE AGREEMENT TO DETERMINE BUYER'S ACTUAL RIGHTS AND OBLIGATIONS. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE PURCHASE AGREEMENT, THE PURCHASE AGREEMENT WILL CONTROL.

## EXHIBIT R

### Section 5.1 -- Summary of Pertinent Provisions of Escrow Agreement

The Escrow Agreement sets up an arrangement under which the deposits a purchaser makes pursuant to a Sales Contract will be held by a neutral party ("**Escrow**"). Under the Escrow Agreement, these things will or may happen:

- (a) Escrow will let the purchaser know when payments are due.
- (b) Escrow will arrange for the purchaser to sign all necessary documents.
- (c) Except under certain circumstances as set forth in the Sales Contract, all deposits toward the purchase price shall be the property of the Developer. Provided that the purchaser is not in default under the Sales Contract and the Sales Contract contains a financing provision, purchaser's deposits, less escrow cancellation fees and third party lender fees, is refundable to purchaser if purchaser fails to qualify for a mortgage loan. Otherwise, all deposits toward the purchase price shall be the property of the Developer. The purchaser will be entitled to a refund of his or her funds only under certain circumstances.
- (d) The purchaser will be entitled to a refund of his or her funds only under certain circumstances as set forth in the Sales Contract.

The Escrow Agreement also establishes the procedures for the retention and disbursement of a purchaser's funds and says what will happen to the funds upon a default under the Sales Contract. The Escrow Agreement contains various other important provisions and establishes certain charges with which a purchaser should be familiar. Purchasers and prospective purchasers should carefully read the signed Escrow Agreement on file with the Real Estate Commission. A copy is available at the Developer's sales office. The Escrow Agreement contains the following provisions (which may be modified or otherwise limited by provisions not set forth below):

1. As and when Seller enters into a Sales Contract, Seller will give Escrow a signed copy of the Sales Contract and Buyer's deposit towards the purchase price of a Unit. The Sales Contract will require Buyer to pay to Escrow all other payments of the purchase price required under the Sales Contract. If Buyer gets a mortgage loan, the money from the loan will be paid to Escrow, along with the lender's mortgage for recording, and Escrow shall follow the lender's instructions. The Sales Contract will show the correct name and address of each Buyer. If a Sales Contract is signed and the sale occurs in a state other than Hawaii, the Sales Contract will show the place where the sale occurs.

2. Escrow will put all of the money it gets from Buyer in one or more special accounts (the "**trust fund**"). The trust fund will be deposited only at a depository designated by Seller or in banks or savings and loan institutions in Hawaii that are insured by the federal government as directed by Seller. The place, or places, where the trust fund is set up will be chosen by Escrow, unless otherwise selected or directed by Seller. Unless any of the Sales Contracts show different instructions, Seller will get all of the interest earned on the trust fund. Escrow will deposit the payments it gets from Buyer into the trust fund one or more times each week, so that the funds may earn the maximum interest.

3. Notwithstanding anything in this Agreement to the contrary, if Seller has submitted to the Real Estate Commission a material house bond securing the construction of improvements in the Community, the following provisions shall apply:

(i) Buyer's money shall not be disbursed to pay for construction costs or other expenses of the Community until the Unit to be conveyed has been completed and the Deed to Buyer has been recorded; and

(ii) If closing is to occur prior to the expiration of the applicable mechanic's lien period, Seller shall provide Buyer with a mechanic's lien endorsement to Buyer's owner's title insurance policy that protects Buyer against all future mechanic's and materialmen's liens. Further, Seller shall confirm to Escrow that Seller has provided the Real Estate Commission with a release by the general contractor of the contractor's lien rights.

4. The Sales Contract states when refunds of deposits may be made to Buyer. In the case where the Sales Contract is not yet binding and Buyer requests a refund, Escrow shall notify Seller of such request. Escrow may refund the deposit to Buyer, less any cancellation or other fees to which Escrow is entitled, only after receiving written approval from Seller. In all other cases, Escrow shall not make any refund to a Buyer who asks for it unless Escrow receives written approval from Seller or from a court of competent jurisdiction. The words "cancellation fees" mean Escrow's cancellation fees which are described in the Sales Contract and are described later in this Agreement. Fees for cancellation may also be charged by the lender who has agreed to lend Buyer money to buy the Unit. The Sales Contract states the instances when Escrow is to subtract cancellation fees from the amount to be refunded unless Seller tells Escrow not to charge the cancellation fees. Escrow shall give each Buyer who is to get a refund written notice of the refund. Escrow will send this notice by registered or certified mail to Buyer at the address shown on Buyer's Sales Contract or to the last address which Buyer may have given to Escrow.

5. Escrow will notify Seller and Buyer promptly if Buyer fails to make a payment or is otherwise in default under the Sales Contract (to the knowledge of Escrow). Seller will notify Escrow in writing if a Buyer has defaulted or not done something that Buyer promised to do in the Sales Contract. Seller will tell Escrow in the same letter that, because Buyer has defaulted, Seller is cancelling the Sales Contract and will give Escrow a copy of the letter that Seller delivered in person or sent by registered or certified mail to Buyer, telling Buyer of the default and cancellation. Seller will also give Escrow a copy of a receipt signed by Buyer or the registered or certified mail return receipt. Escrow will then send a letter to Buyer by registered or certified mail, informing Buyer that Seller has cancelled the Sales Contract because of the default. Escrow will wait for fifteen (15) days after the date which shows on the return receipt as the date when Buyer got Escrow's letter or the date which shows the last time that the post office tried to deliver the letter. If Escrow does not hear from Buyer during that time, Escrow may deduct its cancellation fee from Buyer's funds and treat Buyer's funds which are left as belonging to Seller. If Buyer tells Escrow that Buyer has not defaulted or tells Escrow not to do anything with Buyer's funds, then Escrow may proceed in accordance with Section 5.2 of the Escrow Agreement (to interplead funds) or deliver the funds to Seller.

6. Escrow will set the time (in accordance with Sales Contract and Seller's interest to pre-close) for taking in all money from each Buyer and for the signing of all of the documents that each Buyer must sign to complete the purchase, except for the mortgage documents, which may be signed at the lender's place of business. The conveyance tax certificates, preliminary closing statements, escrow instructions and final closing statements will be prepared by Escrow,

and Escrow will do all of the escrow acts required under this Agreement or any other written agreements between Seller, Buyer and Escrow. Escrow will give Buyer and Seller copies of HARPTA and FIRPTA forms, or provide the online link to obtain copies of those forms, with a recommendation that the parties seek appropriate counsel to complete the forms. Escrow will coordinate with Buyer's lender, the title companies and all others who are a part of the purchase so that closing will occur at a suitable time. Escrow agrees to close all of the sales at the same time or individually from time to time, as directed by Seller. "Closing" is complete when all necessary conveyance and financing documents to complete a purchase are recorded in the appropriate Hawaii recording office. After all documents have been signed, Escrow will close on the closing date as agreed to in the Sales Contract only if:

- (i) The required money has been paid to Escrow;
- (ii) All necessary documents can be recorded, as appropriate;
- (iii) All mortgages having to do with the purchase can be recorded, following the lender's instructions; and
- (iv) All necessary releases can be recorded so that the Unit is conveyed free and clear of all blanket liens in accordance with the Condominium Law.

—

THE ABOVE SUMMARY IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF ALL TERMS AND PROVISIONS CONTAINED IN THE ESCROW AGREEMENT. WHILE ONE CAN USE THIS SUMMARY AS A GENERAL SUMMARY OF THE ESCROW AGREEMENT, ONE MUST REFER TO THE ACTUAL ESCROW AGREEMENT TO DETERMINE THE RIGHTS AND OBLIGATIONS OF THE PARTIES. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS SUMMARY AND THE ESCROW AGREEMENT, THE ESCROW AGREEMENT WILL CONTROL AND NOT THIS SUMMARY.

**EXHIBIT S**  
Section -- 5.2 Sales to Owner Occupants

**AWAKEA AT MEHANA  
AFFIDAVIT OF INTENT TO PURCHASE AND RESIDE IN AN OWNER-OCCUPANT  
DESIGNATED CONDOMINIUM UNIT**

**[ ] Chronological System    [ ] Lottery System**

We, the undersigned "owner-occupants", on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, do hereby declare that it is our intention to purchase and reside in a condominium unit designated for an "owner-occupant" in the Awakea at Mehana condominium community ("Community") proposed by D.R. Horton – Schuler Homes, LLC, a Delaware limited liability company, dba D.R. Horton-Schuler Division ("Developer").

We understand, affirm, represent and agree by signing this Affidavit that:

1. It is our intent to reserve and purchase an owner-occupant designated residential unit ("designated residential unit") pursuant to Section 514B-96 of the Owner-Occupant Law, and upon closing escrow, to reside in the designated residential unit as our principal residence for 365 consecutive days.

2. The term "owner-occupant" as used herein is defined in section 514B-95 of the Owner-Occupant Law as:

"...any individual in whose name sole or joint legal title is held in a residential unit that, simultaneous to such ownership, serves as the individual's principal residence, as defined by the department of taxation, for a period of not less than three hundred and sixty-five consecutive days; provided that the individual shall retain complete possessory control of the premises of the residential unit during this period. An individual shall not be deemed to have complete possessory control of the premises if the individual rents, leases, or assigns the premises for any period of time to any other person in whose name legal title is not held; except that an individual shall be deemed to have complete possessory control even when the individual conveys or transfers the unit into a trust for estate planning purposes and continues in the use of the premises as the individual's principal residence during this period." (Emphasis added).

3. We understand that if two or more prospective owner-occupants intend to reside jointly in the same designated residential unit, only one owner-occupant's name shall be placed on the reservation list for either the chronological system or the lottery system.

4. Should we require financing from a financial institution to purchase the designated residential unit, the financing shall be an owner-occupant mortgage loan. The financial institution is required to take all reasonable steps necessary to determine whether the borrower intends to become an owner-occupant.

5. At any time after obtaining adequate financing or a commitment for adequate financing up until the expiration of this Affidavit (365 days after recordation of the instrument conveying the designated residential unit to us), we shall notify the Real Estate Commission immediately upon any decision to cease being an owner-occupant of the designated residential unit.

6. At closing of escrow, we shall file a claim for and secure an owner-occupant property tax exemption with the appropriate county office for the designated residential unit.

7. We have personally executed this Affidavit and we are all of the prospective owner-occupants for the designated residential unit. This Affidavit shall not be executed by an attorney-in-fact.

8. We shall not sell or offer to sell, lease or offer to lease, rent or offer to rent, assign or offer to assign, convey or otherwise transfer any interest in the designated residential unit until at least 365 consecutive days have elapsed since the recordation of the instrument conveying title to the designated residential unit to us. Furthermore, we understand that we have the burden of proving our compliance with the law. We affirm that we will notify the Real Estate Commission immediately upon any decision to cease being an owner occupant.

9. We understand that it is the affirmative duty of any developer, employee or agent of a developer, and real estate licensee, to report immediately to the Real Estate Commission any person who violates or attempts to violate the Owner-Occupant Law. No developer, employee or agent of a developer, or real estate licensee shall violate or aid any person in violating the Owner-Occupant Law.

10. The Real Estate Commission may require verification of our owner-occupant status and if we fail to submit such verification, we may be subject to a fine in an amount equal to the profit made from the sale, assignment or transfer of the designated residential unit.

11. Any false statement in this Affidavit or violation of the Owner-Occupant Law shall subject us to a misdemeanor charge with a fine not to exceed \$2,000, or by imprisonment of up to a year or both. We further understand that if we violate or fail to comply with the Owner-Occupant Law, we shall be subject to a civil penalty of up to \$10,000, or fifty per cent of the net proceeds received or to be received from the sale, lease, rental, assignment or other transfer of the designated residential unit, whichever is greater.

12. When required by context, each pronoun reference shall include all numbers (singular or plural) and each gender shall include all genders.

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STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_  
to me personally known, who, being by me duly sworn or affirmed, did say that such person(s)  
executed the foregoing instrument as the free act and deed of such person(s), and if applicable,  
in the capacities shown, having been duly authorized to execute such instrument in such  
capacities.

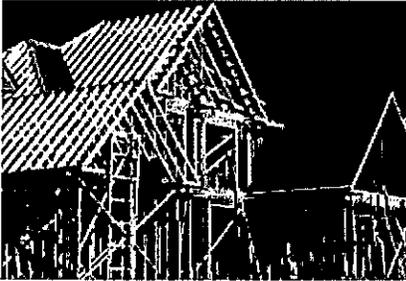
\_\_\_\_\_  
Type or print name: \_\_\_\_\_  
Notary Public, State of Hawaii.  
My commission expires: \_\_\_\_\_

Date of Doc: _____	# Pages: _____
Name of Notary: _____	Notes: _____
Doc. Description: _____	(stamp or seal)
_____	
_____	
Notary Signature _____	Date _____
First Circuit, State of Hawaii	
<b>NOTARY CERTIFICATION</b>	

**EXHIBIT T**  
Section 5.4 -- Construction Warranties

# THE LIMITED WARRANTY

10 YEAR WRITTEN WARRANTY FOR NEW HOMES



**SUBJECT TO CHANGE.  
NO WARRANTY WILL BE ISSUED UNLESS THE BUILDER COMPLIES WITH ALL  
WARRANTY PROGRAM STANDARDS.**

This Limited Warranty does not cover consequential or incidental damages. The Warrantor's total aggregate liability of this Limited Warranty is limited to the Final Sales Price listed on the Application For Warranty form.

The Builder makes no housing merchant implied warranty or any other warranties, express or implied, in connection with the attached sales contract or the warranted Home, and all such warranties are excluded, except as expressly provided in this Limited Warranty. There are no warranties which extend beyond the face of this Limited Warranty.

Some states do not allow the exclusion or limitation of incidental or consequential damages by the Builder so all of the limitations or exclusions of this Limited Warranty may not apply to you.

### Warranty Confirmation

Your Warranty consists of your Limited Warranty book and your Warranty Confirmation. Please go to [confirm.rwcwarranty.com](http://confirm.rwcwarranty.com) to obtain your Warranty Confirmation within 60 days of your closing. You do not have a warranty without the Warranty Confirmation. If you do not have access to the Internet, please contact the plan Administrator to obtain your Limited Warranty book and Warranty Confirmation.

### SAMPLE WARRANTY

The RWC Limited Warranty displayed in this book is a SAMPLE only. The RWC Limited Warranty applicable to your home may differ from the one displayed here. You must consult your validated RWC Limited Warranty book for the terms of coverage that apply to your home.

For your Limited Warranty to be in effect, you should receive the following documentation:  
Limited Warranty #319 • Application For Warranty form #316 (Refer to I.B.3. for applicability) • Warranty Confirmation

*Insurer: Western Pacific Mutual Insurance Company, A Risk Retention Group*

# RESIDENTIAL WARRANTY COMPANY, LLC



Dear Home Buyer,

Congratulations on the purchase of your new Home. This is probably one of the largest, most important investments you've ever made and we wish you many years of enjoyment. You've chosen a Home built by a leading Builder which includes the RWC Limited Warranty, assurance that your investment is well protected. This book explains the Limited Warranty in its entirety, and we encourage you to take time to READ IT CAREFULLY.

This Limited Warranty provides you with protection in accordance with this warranty book for ten full years of Home ownership. During the first two years, your Builder is responsible for specified warranty obligations. In the unlikely event your Builder is unable or unwilling to perform, the Warranty is provided subject to the conditions, terms and exclusions listed. For the remaining eight years, your Warranty applies to Major Structural Defects as defined in this book.

This is not a warranty service contract, but a written ten year limited warranty which your Builder has elected to provide with your Home.

Take time now to read this book. Familiarize yourself with the Warranty and its limitations. Contact your Builder regarding specific construction standards and how they apply to your Home.

Again, congratulations and enjoy your new Home!

Very truly yours,  
Residential Warranty Company, LLC

## TABLE OF CONTENTS

Section I. Definitions .....	1
Section II. The Limited Warranty.....	3
Section III. Warranty Standards.....	8
Section IV. Requesting Warranty Performance ....	21
Section V. Addenda .....	24
A. Newark, Delaware	
B. State of New York	
C. State of Indiana	
D. HUD (Applicable to VA/FHA financed homes only)	
E. Maryland Addendum	



Residential Warranty Company, LLC  
5300 Derry Street, Harrisburg, PA 17111  
717-561-4480

**A. Introduction**

To help you better understand your Limited Warranty, refer to the following list of definitions which apply in this book.

**B. Definitions\***

1. **Administrator**  
Residential Warranty Company, LLC (RWC) is the Administrator of this Limited Warranty. RWC is neither Warrantor nor Insurer.
2. **Appliances and Items of Equipment, including Attachments and Appurtenances**  
Water heaters, pumps, stoves, refrigerators, compactors, garbage disposals, ranges, dishwashers, washers and dryers, bathtubs, sinks, commodes, faucets, light fixtures, switches, outlets, thermostats, furnaces and oil tanks, humidifiers, oil purifiers, air conditioning materials, in-house sprinkler systems and similar items.
3. **Application For Warranty**  
The form signed at closing by you, the Purchaser, and your Builder which identifies the location, the Effective Date Of Warranty and the Final Sales Price of the enrolled Home. If the Builder is participating in the RWC electronic enrollment process, the Application for Warranty form is eliminated. This information will be included on your Warranty Confirmation.
4. **Arbitrator**  
The person appointed by the independent arbitration service to resolve an Unresolved Warranty Issue.
5. **Builder**  
The person, corporation, partnership or other entity which participates in the RWC Limited Warranty Program and has obtained this Limited Warranty for you.
6. **Consequential Damages**  
All consequential damages including, but not limited to, damage to the Home that is caused by a warranted Defect but is not itself a warranted Defect and costs of shelter, transportation, food, moving, storage or other incidental expenses related to relocation during repairs.
7. **Cooling, Ventilating and Heating Systems**  
All ductwork, refrigerant lines, steam and water pipes, registers, convectors and dampers.

8. **Defect**  
A condition of any item warranted by this Limited Warranty which exceeds the allowable tolerance specified in this Limited Warranty. Failure to complete construction of the Home or any portion of the Home, in whole or in part, is not considered a Defect.
9. **Effective Date Of Warranty**  
The date coverage begins as specified on the Application for Warranty form or on your Warranty Confirmation if your Builder is participating in the electronic enrollment process.\*
10. **Electrical Systems**  
All wiring, electrical boxes and connections up to the house side of the meter base.



11. **Home**  
The single family dwelling, identified on the Application For Warranty form, which may be a townhome, condominium or duplex.
12. **Insurer**  
Western Pacific Mutual Insurance Company, a Risk Retention Group (WPMIC), located at 9265 Madras Ct, Littleton, CO 80130, phone: 303-263-0311. (Refer to Section IV. for instructions on requesting warranty performance.)
13. **Limited Warranty**  
The terms and conditions contained in this book including any applicable addenda.



**SECTION I.**

## DEFINITIONS

### SECTION I.

#### 14. Major Structural Defects (MSD)

All of the following conditions must be met to constitute a Major Structural Defect:\*

- a. actual physical damage to one or more of the following specified load-bearing components of the Home;
- b. causing the failure of the specific major structural components; and
- c. which affects its load-bearing function to the degree that it materially affects the physical safety of the occupants of the Home.

Load-bearing components of the Home deemed to have MSD potential:

- (1) roof framing members (rafters and trusses);
- (2) floor framing members (joists and trusses);
- (3) bearing walls;
- (4) columns;
- (5) lintels (other than lintels supporting veneers);
- (6) girders;
- (7) load-bearing beams; and
- (8) foundation systems and footings.

Examples of non-load-bearing elements deemed not to have Major Structural Defect potential:

- (1) non-load-bearing partitions and walls;
- (2) wall tile or paper, etc.;
- (3) plaster, laths or drywall;
- (4) flooring and subflooring material;
- (5) brick, stucco, stone, veneer, or exterior wall sheathing;
- (6) any type of exterior siding;
- (7) roof shingles, sheathing\* and tar paper;
- (8) Heating, Cooling, Ventilating, Plumbing, Electrical and mechanical systems;
- (9) Appliances, fixtures or Items of Equipment; and
- (10) doors, windows, trim, cabinets, hardware, insulation, paint and stains.

#### 15. Owner

See Purchaser.

#### 16. Plumbing Systems

All pipes located within the Home and their fittings, including gas supply lines and vent pipes.

#### 17. Purchaser

You. The Purchaser includes the first buyer of the warranted Home and any and all subsequent Owners who take title within the warranty period.

#### 18. Residence

See Home.

#### 19. Sewage Disposal System (Private or Public)

This system includes, but is not limited to, all waste, drainage, sewer pipes and lines, cleanouts, tanks, pumps, drainfields and seepage pits, outside and beyond the exterior wall of the Home.

#### 20. Structurally Attached

An integral part of the Home being structurally supported by footings, block walls or reinforced concrete and connected to the foundation of the Home.

#### 21. Unresolved Warranty Issue

All requests for warranty performance, demands, disputes, controversies and differences that may arise between the parties to this Limited Warranty that cannot be resolved among the parties. An Unresolved Warranty Issue may be a disagreement regarding:

- a. the coverages in this Limited Warranty;
- b. an action performed or to be performed by any party pursuant to this Limited Warranty;
- c. the cost to repair or replace any item covered by this Limited Warranty.

#### 22. Warrantor

Your Builder in Years 1 and 2; the Insurer in Years 3 through 10 and in Years 1 and 2 if your Builder defaults.

#### 23. Warranty Confirmation

The document you obtain by going to [confirm.rvcwarranty.com](http://confirm.rvcwarranty.com) and then following the directions to validate your warranty. It includes your Validation Number, Effective Date of Warranty, Term of Coverage and applicable Addenda.

#### 24. Water Supply System (Private or Public)

This system includes, but is not limited to, all supply and distribution pipes, fittings, valves, pumps and wells, outside the exterior wall of the Home, which supply water to the Home.

## THE LIMITED WARRANTY

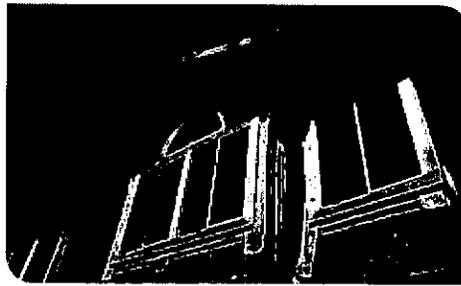
### A. Introduction to the Limited Warranty

1. This book provides specific details, conditions and limitations of the Limited Warranty including procedures for requesting warranty performance and for binding arbitration, in accordance with the procedures of the Federal Arbitration Act. Additional information may be received by calling RWC at (717) 561-4480. Read this document in its entirety to understand the protection it affords, the exclusions applicable to it, the Warranty Standards which determine its interpretations and operation and your responsibilities.
2. This is NOT an insurance policy, a maintenance agreement or a service contract. It is an explanation of what you, the Purchaser, can expect from this Limited Warranty.
3. Appliances and Equipment included in the Home are not warranted under this Limited Warranty, but may be covered by separate warranties provided by the manufacturer or supplier. These warranties are passed on to you by your Builder at closing and are separate from this Limited Warranty.
4. You are responsible for maintenance of your new Home. General and preventative maintenance are required to prolong the life of your new Home.
5. This Limited Warranty is **automatically transferred** to subsequent Owners during the ten-year term of this Limited Warranty, except in the case of a foreclosure that voids the warranty as provided in Section II.A.6.\*
6. This Limited Warranty becomes void and all obligations on the part of Warrantor cease as of the date an Owner vacates the Home due to foreclosure proceedings.\*
7. This Limited Warranty is subject to changes required by various regulating bodies. FHA and VA, as well as some local agencies have mandated the additions noted in the Addenda Section of this Limited Warranty book. Notations throughout indicate where the Addenda apply.

### B. The Limited Warranty

1. **Actions taken to cure Defects will NOT extend the periods of specified coverages in this Limited Warranty.**
2. Only warranted elements which are specifically designated in the Warranty Standards are covered by this Limited Warranty.

3. The Warrantor has the choice to repair, replace or pay the reasonable cost to repair or replace warranted items which do not meet Warranty Standards and are not excluded in the Limited Warranty.
4. If a warranted MSD occurs during the appropriate coverage period, and is reported as required in **Section IV.**, the Warrantor will repair, replace or pay you the reasonable cost to repair or replace the warranted MSD, limited to actions necessary to restore the MSD to its load-bearing capacity.



### C. Warranty Coverage\*

1. **ONE YEAR COVERAGE:** Your Builder warrants that for a period of one (1) year after the Effective Date Of Warranty, warranted items will function and operate as presented in the Warranty Standards of Year 1, **Section III.A.** Coverage is **ONLY** available where specific Standards and Actions are represented in this Limited Warranty.\*
2. **TWO YEAR COVERAGE:** Your Builder warrants that for a period of two (2) years from the Effective Date Of Warranty, specified portions of the Heating, Cooling, Ventilating, Electrical and Plumbing Systems, as defined in this Limited Warranty, will function and operate as presented in the Warranty Standards of Years 1 and 2 only, **Section III.B.**†
3. **TEN YEAR COVERAGE:** Major Structural Defects (MSD) are warranted for ten (10) years from the Effective Date Of Warranty. Your Builder is the Warrantor during Years 1 and 2 of this Limited Warranty and the Insurer is the Warrantor in Years 3 through 10.
4. **CONDOMINIUM COVERAGE:** This Limited Warranty shall only apply to warranted common elements. Warranted common elements are those portions of the defined Electrical, Heating, Ventilating, Cooling, Plumbing and structural Systems



## SECTION II.

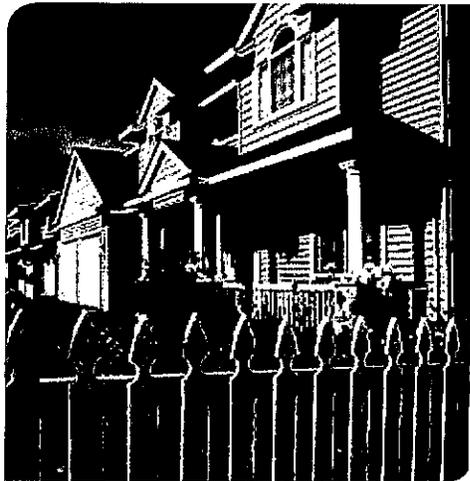
\*FHA/VA Homeowners, refer to HUD Addendum, Section V.D.

†Homeowners in Indiana, refer to State of Indiana Addendum, Section V.C.

## THE LIMITED WARRANTY

### SECTION II.

which serve two (2) or more residential units, and are contained wholly within a residential structure. Warranty coverage for common elements shall be for the same periods and to the same extent as similar or comparable items in individual residential units. Examples of common elements which are covered by this Limited Warranty are hallways, meeting rooms and other spaces wholly within the residential structure designated for the use of two (2) or more units. Examples of common elements which are not covered under this Limited Warranty are club houses, recreational buildings and facilities, exterior structures, exterior walkways, decks, balconies, arches or any other non-residential structure which is part of the condominium.\*



#### D. Conditions\*

1. This Limited Warranty provides coverage only in excess of coverage provided by other warranties or insurance, whether collectible or not.
2. This Limited Warranty is binding on the Builder and you and your heirs, executors, administrators, successors and assigns.
3. This Limited Warranty shall be interpreted and enforced in accordance with the laws of the state in which the Home is located.
4. This Limited Warranty is separate and apart from your contract and/or other sales agreements with your Builder. It cannot be affected, altered or amended in any way by any other agreement which you may have.
5. This Limited Warranty cannot be modified, altered or amended in any way except by a formal written instrument signed by you, your Builder and the Administrator.
6. If any provision of this Limited Warranty is determined by a court of competent jurisdiction to be unenforceable, that determination will not affect the validity of the remaining provisions.
7. All notices required under this Limited Warranty must be in writing and sent by email or certified mail, return receipt requested. If you send your written notice by email, your written notice must be sent to [warranty.resolution@rwcwarranty.com](mailto:warranty.resolution@rwcwarranty.com). The written notice will not be considered received without a valid confirmation of receipt number. If you do not receive a confirmation of receipt number within 48 hours of emailing your written notice, contact RWC by calling 717-561-4480 and request to speak with the Warranty Resolution Department's Customer Service. If sending your written notice by certified mail, return receipt requested, it must be postage prepaid, to the recipient's address shown on the Application for Warranty form, or to whatever address the recipient may designate in writing.
8. If actions by the Warrantor on any obligations under this Limited Warranty are delayed by an event beyond its control, such performance will be excused until the delaying effects of the event are remedied. Such events include, but are not limited to, acts of God, acts of the common enemy, war, riot, civil commotion or sovereign conduct, or acts or omissions by you or any other person not a party of this Limited Warranty.
9. If your Builder fails to complete any part of the Home that is reasonably foreseeable to cause damage to the Home, then it is your responsibility to complete such parts of the Home to avoid the damage. If you fail to complete the work, then any resulting damage is not covered under this Limited Warranty. The warranty period for any item completed after the Effective Date of Warranty shall be deemed to have commenced on the Effective Date of Warranty.\*
10. Costs incurred for unauthorized repairs to warranted items are not reimbursable. Written authorization prior to incurring expenses must be obtained from the Administrator.\*

## THE LIMITED WARRANTY

11. Whenever appropriate, the use of one gender includes all genders and the use of the singular includes the plural.



12. Under this Limited Warranty, the Warrantor is not responsible for exact color, texture or finish matches in situations where materials are replaced or repaired, or for areas repainted or when original materials are discontinued.
13. Your Builder must assign to you all manufacturers' warranties on products included in the Final Sales Price of your Home. Neither the Insurer nor the Administrator shall be liable for your Builder's failure to do so.
14. You are responsible for establishing a written, final walk-through inspection list of items in need of service prior to occupancy or closing, whichever is first. This list must be signed and dated by you and your Builder. Keep a copy for your records.

### E. Exclusions

The following are NOT covered under this Limited Warranty:

1. Loss or damage:
  - a. to land.
  - b. to the Home, persons or property directly or indirectly caused by insects, birds, vermin, rodents, or wild or domestic animals.
  - c. which arises while the Home is used primarily for non-residential purposes.
  - d. which is covered by any other insurance or for which compensation is granted by legislation.\*
  - e. resulting directly or indirectly from flood, surface water, waves, tidal water, overflow of a body of water, or spray from any of these (whether or not driven by wind), water which backs up from sewers or drains, changes in the water table which were not reasonably foreseeable, water below the surface of the ground (including water which exerts pressure on or seeps or leaks through a building, sidewalk, driveway, foundation, swimming pool, or other structure), wetlands, springs or aquifers.\*
- f. from normal deterioration or wear and tear.
- g. caused by material or work supplied by anyone other than your Builder or its employees, agents or subcontractors.
- h. from your or the condominium association's failure to perform routine maintenance on the Home, common areas, common elements or your or the condominium association's grounds.
  - i. after Year 1, to, resulting from, or made worse by all components of structurally attached decks, balconies, patios, porches, stoops, porch roofs and porticos.
  - j. after Year 1, to, resulting from, or made worse by elements of the Home which are constructed separate from foundation walls or other structural elements of the Home such as, but not limited to, chimneys and concrete floors of basements and attached garages.
  - k. to wiring, to and between communication devices from the source of power, whether or not connected to the interior wiring system of the Home. Such devices shall include, but not be limited to, telephone systems, television cable systems, intercom systems, computer systems and security systems. Sources of power shall include, but not be limited to, service entrance conductors, switches, outlets, receptacles and junction boxes.
  - l. to, or caused by, recreational facilities; driveways; walkways; patios, porches and stoops not structurally attached; decks and balconies which are not bolted to or cantilevered from the main structure of the Home; boundary and/or retaining walls; bulkheads; fences; landscaping, sodding, seeding, shrubs, trees and plantings; subsurface drainage systems (other than footer drains); lawn sprinkler systems; off-site improvements, including streets, sidewalks, adjacent property and the like; or any other improvements not part of the Home itself.

## SECTION II.

## THE LIMITED WARRANTY



### SECTION II.

- m. caused by any item listed as an additional exclusion on the Application for Warranty form.
2. Loss or damage resulting from, or made worse by:
  - a. changes in the grading of the property surrounding the Home by anyone except your Builder or its employees, agents or subcontractors.
  - b. changes in grading caused by erosion.
  - c. modifications or additions to the Home, or property under or around the Home, made after the Effective Date Of Warranty (other than changes made in order to meet the obligations of this Limited Warranty).
  - d. intrusion of water into crawl spaces.\*
  - e. the weight and/or performance of any type of waterbed or any other furnishing which exceeds the load-bearing design of the Home.
  - f. the presence or consequence of unacceptable levels of radon, formaldehyde, carcinogenic substances or other pollutants and contaminants; or the presence of hazardous or toxic materials resulting in uninhabitability or health risk within the Home.
  - g. acts or omissions by you, your agents, employees, licensees, invitees; accidents, riots, civil commotion, nuclear hazards, acts of God or nature, fire, explosion, blasting, smoke, drought, water escape, windstorms, tropical storms, hurricanes, hail, lightning, ice, snow, falling trees, aircraft, vehicles, flood, mud slides, sink-holes, mine subsidence, faults, crevices, earthquake, land shock waves or tremors occurring before, during or after a volcanic eruption, or manmade events such as war, terrorism or vandalism.
  - h. your failure to perform routine maintenance.
  - i. your failure to minimize or prevent such loss or damage in a timely manner.
  - j. defects in, but not limited to: recreational facilities; driveways; walkways; patios, porches and stoops not structurally attached; decks and balconies which are not bolted to or cantilevered from the main structure of the Home; boundary and/or retaining walls; bulkheads; fences; landscaping, sodding, seeding, shrubs, trees and plantings; sub-surface drainage systems (other than footer drains); lawn sprinkler systems; off-site improvements, including streets, sidewalks, adjacent property and the like; or any other improvements not part of the Home itself.
  - k. defects in detached garages or outbuildings (except those which contain Plumbing, Electrical, Heating, Cooling or Ventilating Systems serving the Home, and then only to the extent where Defects would affect these systems). A detached garage is one which is constructed on its own foundation, separate and apart from the foundation of the Home. A breezeway, fence, utility line or similar union shall not cause a garage or outbuilding to be considered attached.
  - l. negligent maintenance or operation of the Home and its systems by anyone other than your Builder or its agents, employees or subcontractors.
  - m. any portion of a Water Supply System, private or public, including volume and pressure of water flow.\*
  - n. quality and potability of water.
  - o. any portion of a Sewage Disposal System, private or public, including design.\*
  - p. dampness, condensation or heat build-up caused by your failure to maintain proper ventilation.\*



## THE LIMITED WARRANTY

3. Failure of your Builder to complete construction of the Home or any part of the Home on or before the Effective Date Of Warranty or damages arising from such failure. An incomplete item is not considered a Defect, although your Builder may be obligated to complete such items under separate agreements between you and your Builder.
4. Any deficiency which does not result in actual physical damage or loss to the Home.
5. Any Consequential Damages.\*
6. Personal property damage or bodily injury.
7. Violation of applicable Building Codes or ordinances unless such violation results in a Defect which is otherwise covered under this Limited Warranty. Under such circumstances, the obligation of the Warrantor under this Limited Warranty shall only be to repair the defective warranted portion of the Home, but not to restore or bring the Home to conform to code.
8. Any request for warranty performance submitted to the Administrator after an unreasonable delay or later than 30 days after the expiration of the applicable warranty period.
9. Warranted Defects that you repair without prior written authorization of the Administrator.\*
10. Any damages to, or resulting from a swimming pool whether located within or outside the Home, as a result of its construction, placement, use, equipment, maintenance, etc.
11. The removal and/or replacement of items specifically excluded from coverage under this Limited Warranty, such as landscaping or personal property, and items not originally installed by your Builder, such as wallpaper, where removal and replacement are required to execute a repair.
12. Any Defect consisting of, caused by, contributed to, or aggravated by moisture, wet or dry rot, mold, mildew, fungus or rust, regardless of the originating cause of any moisture or water penetration that leads to the Defect.
13. Sound transmission and sound proofing between rooms or floor levels.
14. Appliances and Equipment included in the Home are not warranted under this Limited Warranty, but may be covered by separate warranties provided by the manufacturer or supplier. These warranties are passed on to you by your Builder at closing and are separate from this Limited Warranty. Damage caused by improper maintenance or operation,

negligence, or improper service of these items by you or your agent will not be covered under this Limited Warranty. †

15. Modifications or additions to the Home, or property under or around the Home, made after the Effective Date of Warranty (other than changes made in order to meet the obligations of this Limited Warranty).



## SECTION II.

### F. Limitation of Liability

1. The Warrantor's liability and obligations are limited to the repair, replacement or the payment of the reasonable cost of repair or replacement of warranted items not to exceed an aggregate equal to the Final Sales Price of the Home as listed on the Application for Warranty form or in the absence of an Application for Warranty form, as otherwise provided to the Administrator by the Builder. The choice to repair, replace or make payment is the Warrantor's.
2. All other warranties, express or implied, including, but not limited to, all implied warranties of fitness, merchantability or habitability, are disclaimed and excluded to the extent allowed by law.

## WARRANTY STANDARDS • A. YEAR 1 COVERAGE ONLY

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply. †

### 1. FOUNDATIONS

OBSERVATION	ACTION REQUIRED	COMMENTS
<b>BASEMENT</b>		
1.1 Cracks appear in control joints.	No action required.	The expansion/contraction joint is placed to control cracking. This is not a deficiency.
1.2 Uneven concrete floors in finished areas of a basement.	Builder will correct those areas in which Defect exceeds 3/8 in. within a 32 in. measurement.	In rooms not initially finished as living areas or where a floor or a portion of a floor surface has been designed for specific drainage purposes, a slope which exceeds 3/8 in. within a 32 in. measurement is not a deficiency.
1.3 Cracks in poured concrete foundation walls.	Builder will correct any crack which exceeds 1/4 in. in width.	Shrinkage cracks are common and should be expected. Surface patching and epoxy injections are examples of acceptable repair methods.
1.4 Cracks in block or veneer wall.	Builder will correct cracks which exceed 1/4 in. in width.	Some cracks are common through masonry and mortar joints. Cracks 1/4 in. or less are considered routine Owner maintenance.
1.5 Leaks resulting in actual flow or trickling of water through wall or floor, causing an accumulation.	Builder will correct.	A one-time occurrence may not indicate a Defect. Owner must maintain proper grading around the Home and maintain any surface water control systems installed by Builder. Dampness and condensation are normal conditions and are not covered by this Limited Warranty.
1.6 Disintegration of the concrete floor surface.	Builder will correct disintegrated surfaces caused by improper placement of concrete.	Disintegration caused by erosion due to salt, chemicals, implements used and other factors beyond Builder's control is not a warranted deficiency.
1.7 Cracks in concrete floor which rupture or significantly impair performance of floor covering.	Builder will correct so Defect is not readily noticeable when floor covering is in place.	Minor impressions in floor covering are not considered significant imperfections.
1.8 Cracks in concrete floor of unfinished area (no floor covering) or in areas not designed for living.	Builder will correct cracks which exceed 1/4 in. in width or vertical displacement.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks are common and should be expected.
1.9 Condensation on walls, joists, support columns and other components of basement area.	No action required.	Maintaining adequate ventilation and moisture control is considered Owner maintenance.

### SECTION III.

## WARRANTY STANDARDS • A. YEAR 1 COVERAGE ONLY

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.

### 1. FOUNDATIONS

**SECTION  
III.**

OBSERVATION	ACTION REQUIRED	COMMENTS
<b>CRAWL SPACE</b>		
1.10 Cracks in poured concrete foundation walls.	Builder will correct any crack which exceeds 1/4 in. in width.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks of 1/4 in. or less are common and should be expected.
1.11 Cracks in block or veneer wall.	Builder will correct cracks greater than 1/4 in. in width.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks of 1/4 in. or less are common and should be expected.
1.12 Inadequate ventilation.	Builder will install properly sized louvers or vents.	Maintaining adequate ventilation and moisture control, including seasonal adjustment of vent openings, is considered Owner maintenance.
1.13 Condensation on walls, joists, support columns and other components of the crawl space area.	No action required.	Maintaining adequate ventilation and moisture control, including seasonal adjustment of vent openings, is considered Owner maintenance.
<b>SLAB ON GRADE</b>		
1.14 Cracks appear at control joints.	No action required.	Expansion/contraction joint is placed to control cracking. This is not a deficiency.
1.15 Uneven concrete floors in finished areas.	Builder will correct areas in which Defect exceeds 3/8 in. within a 32 in. measurement.	In rooms not initially finished as living areas or where a floor or a portion of a floor surface has been designed for specific drainage purposes, a slope which exceeds 3/8 in. within a 32 in. measurement is acceptable.
1.16 Disintegration of concrete floor surface.	Builder will correct disintegrated surfaces caused by improper placement of concrete.	Disintegration caused by erosion due to salt, chemicals, implements used and other factors beyond Builder's control is not a warranted deficiency.
1.17 Crack in concrete floor which ruptures or significantly impairs performance of floor covering.	Builder will correct so Defect is not readily noticeable when floor covering is in place.	Minor impressions in floor covering are not considered significant imperfections.
1.18 Cracks in attached garage slab.	Builder will correct cracks which exceed 1/4 in. in width or vertical displacement.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks are common and should be expected.
1.19 Cracks in concrete floor of unfinished area (no floor covering) or in areas not designed for living.	Builder will correct cracks which exceed 1/4 in. in width or vertical displacement.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks are common and should be expected.
1.20 Cracks in visible face of foundation.	Builder will correct cracks in excess of 1/4 in. in width.	Surface patching and epoxy injections are examples of acceptable repair methods. Shrinkage cracks are common and should be expected.

## WARRANTY STANDARDS • A. YEAR 1 COVERAGE ONLY

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.

### 2. FRAMING

OBSERVATION	ACTION REQUIRED	COMMENTS
<b>CEILING</b>		
2.1 Uneven ceiling.	Builder will correct if unevenness exceeds 1/4 in. within a 32 in. measurement.	Some minor framing imperfections should be expected.
<b>FLOOR</b>		
2.2 High and low areas.	Builder will correct if high or low areas exceed 1/4 in. within a 32 in. measurement.	Some minor framing imperfections should be expected.
2.3 Floor squeaks.	Builder will correct if caused by a defective joist or improperly installed subfloor. Builder will take corrective action to reduce squeaking to the extent possible within reasonable repair capability without removing floor or ceiling finishes.	A large area of floor squeaks which is noticeable, loud and objectionable is a Defect. A squeak-proof floor cannot be guaranteed. Lumber shrinkage as well as temperature and humidity changes may cause squeaks.
<b>ROOF</b>		
2.4 Split or warped rafters or trusses.	No action required.	Some splitting and warping is normal and is caused by high temperature effects on lumber.
<b>WALL</b>		
2.5 Bow or bulge.	Builder will correct if bow or bulge exceeds 1/2 in. within 32 in. horizontal or vertical measurement.	Minor framing imperfections should be expected.
2.6 Out-of-plumb.	Builder will correct where out-of-plumb condition exceeds 3/4 in. within 8 ft. vertical measurement.	Minor framing imperfections should be expected.
2.7 Wall is out-of-square.	No action required.	A wall out-of-square is not a Defect.

SECTION  
III.

## WARRANTY STANDARDS • A. YEAR 1 COVERAGE ONLY

The following Warranty Standards are applicable only to warranted Items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.

### 3. EXTERIOR



**SECTION III.**

OBSERVATION	ACTION REQUIRED	COMMENTS
<b>STRUCTURALLY ATTACHED WOOD OR COMPOSITE DECKS</b>		
3.1 Wood twisting, warping or splitting.	Builder will correct only if due to improper installation.	Twisting, warping or splitting of wood deck material is normal due to exposure to the elements. Owner maintenance is required.
3.2 Settlement.	Builder will correct slope of deck which exceeds a ratio of 2 in. in a 10 ft. measurement.	Some slope is often provided to allow for water drainage.
3.3 Loose railing or post.	Builder will correct if due to improper installation.	Owner maintenance is required.

### DOORS

3.4 Binds, sticks or does not latch.	Builder will correct if caused by faulty workmanship or materials.	Seasonal changes may cause doors to expand and contract, and are usually temporary conditions.
3.5 Wood door panel shrinks.	No action required.	Panels will shrink and expand and may expose unfinished surfaces.
3.6 Warping.	Builder will correct warping which exceeds 1/4 in., measured vertically, horizontally or diagonally.	Seasonal changes may cause doors to expand and contract, and are usually temporary conditions.
3.7 Split in panel.	Builder will correct if split allows the entrance of elements.	Splits which do not allow the entrance of elements are considered normal. Owner maintenance is required.
3.8 Separation between door and weather-stripping.	Builder will correct if daylight is visible or if entrance of elements occurs under normal conditions.	Even with properly installed weather-stripping, some movement of the door, when closed, may be expected. Owner maintenance is required for minor alterations to adjustable thresholds and other parts of the door.
3.9 Screen mesh is torn or damaged.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
3.10 Overhead garage door fails to operate or allows rain or snow to leak through.	Builder will correct garage doors which do not fit or operate properly.	Some entrance of elements can be expected and is not considered a deficiency. If Owner installs a garage door opener, Builder is not responsible for operation of door.



## WARRANTY STANDARDS • A. YEAR 1 COVERAGE ONLY

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.



### 3. EXTERIOR

OBSERVATION	ACTION REQUIRED	COMMENTS
<b>ROOFING</b>		
3.11 Roof and roof flashing leaks.	Builder will correct active and current leaks that occur under normal conditions.	No action is required if leak is due to snow or ice buildup, high winds or driving rains. Prevention of snow or ice buildup is the Owner's responsibility. Substantiation of an active and current leak is the Owner's responsibility.
3.12 Lifted, torn, curled, or cupped shingles.	No action required.	Owner maintenance is required. Cupping in excess of 1/2 in. should be reported to the manufacturer.
3.13 Shingles that have blown off.	Builder will correct affected area if due to poor installation.	Shingles shall not blow off in winds less than the manufacturer's specifications.
3.14 Inadequate ventilation.	Builder will provide adequate ventilation.	Moisture accumulation in attics which are not adequately vented is a deficiency. Owner is responsible to keep vents clear of obstructions to promote air flow.
3.15 Water stays in gutters.	Builder will correct to limit standing water depth at 1 in.	Owner is responsible for keeping gutters and downspouts clean.
3.16 Gutter or downspout leaks.	Builder will correct leaks at connections.	Owner is responsible for keeping gutters and downspouts clean. Gutters may overflow during heavy rains.
<b>SITE WORK</b>		
3.17 Standing water within 10 ft. of the foundation.	Builder will correct water which stands for more than 24 hours, or more than 48 hours in swales.	Standing water beyond the 10 ft. perimeter of the foundation is not covered by this Limited Warranty. Owner is responsible for establishing and maintaining adequate ground cover.
3.18 Settling of ground around foundation walls, utility trenches or other filled areas on property where there has been excavation and backfill which affected foundation drainage.	If final grading was performed by Builder, he will replace fill in excessively settled areas only once.*	If settlement does not exceed 6 in., it is Owner's responsibility to fill affected areas. The party responsible for establishing the final grade shall provide for positive drainage away from foundation. Owner is responsible for establishing and maintaining adequate ground cover.
<b>STRUCTURALLY ATTACHED STOOP, PORCH &amp; PATIO</b>		
3.19 Settlement, heaving or movement.	Builder will correct if movement exceeds 1 in. from the Home for stoops, porches and patios which are structurally attached.	Stoops, porches and patios which are poured separately and simply abut the house are not covered by this Limited Warranty.
3.20 Concrete splatters on adjacent surfaces.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.

\*FHA/VA Homeowners, refer to HUD Addendum, Section V.D.

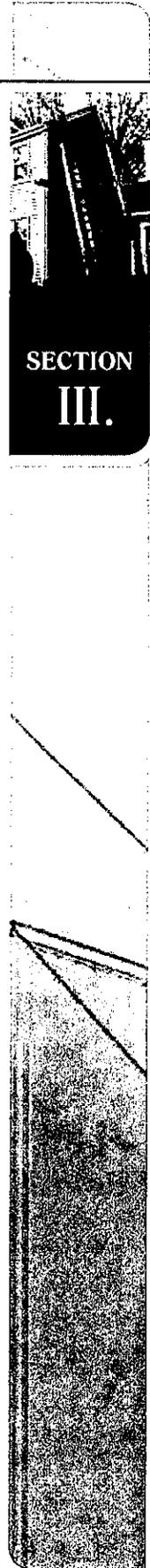
## WARRANTY STANDARDS • A. YEAR 1 COVERAGE ONLY

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.

### 3. EXTERIOR

OBSERVATION	ACTION REQUIRED	COMMENTS
<b>WALL COVERING</b>		
3.21 Entrance of elements through separations of wood, hardboard or fiber cement siding or trim joints, or separation between trim and surfaces of masonry or siding.	Builder will correct entrance of elements or separations exceeding 3/8 in. by caulking or other methods.	Any separations 3/8 in. or less are considered routine Owner maintenance.
3.22 Cracks in stucco or similar synthetic based finishes.	Builder will correct cracks which exceed 1/8 in. in width.	Caulking and touch-up painting are examples of acceptable repair methods. Builder is not responsible for exact color, texture or finish matches. Hairline cracks are common.
3.23 Siding materials become detached from the Home.	Builder will correct affected area if due to improper workmanship or materials.	Separated, loose or delaminated siding can be due to improper maintenance and is not considered a Defect.
3.24 Aluminum or vinyl siding is bowed or wavy.	Builder is responsible only if installed improperly and waves or bowing exceed 1/2 in. within a 32 in. measurement.	Check your manufacturer's warranty on this product for coverage regarding dents, holes, wind specifications, etc.
3.25 Paint or stain peels or deteriorates.	Builder will correct. If 75% of a particular wall is affected, entire wall will be corrected.	Some fading is normal due to weathering. Mildew and fungus on exterior surfaces are caused by climatic conditions and are considered routine maintenance. Varnish or lacquer deteriorates quickly and is not covered by this Limited Warranty.
3.26 Paint splatters and smears on other surfaces.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
3.27 Faulty application of paint on wall and trim surfaces.	Builder will correct affected area. If greater than 75% of wall or trim piece is affected, entire surface will be corrected.	Some minor imperfections such as overspray, brushmarks, etc., are common and should be expected.
3.28 Knot holes bleed through paint or stain.	Builder will correct affected areas where excessive bleeding of knots appear.	Knot holes will be apparent depending on the quality of material used.
3.29 Vent or louver leaks.	Builder will correct if caused by improper installation.	Properly installed louvers or vents may at times allow rain or snow to enter under strong wind conditions and is not a deficiency.
3.30 Cracks in masonry, veneer, stone, etc.	Builder will correct cracks which exceed 1/4 in. in width.	Some cracks are common through masonry and mortar joints. Cracks 1/4 in. or less are considered routine Owner maintenance.

## SECTION III.



## WARRANTY STANDARDS • A. YEAR 1 COVERAGE ONLY

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.

### 3. EXTERIOR

OBSERVATION	ACTION REQUIRED	COMMENTS
<b>WINDOWS</b>		
3.31 Condensation or frost on interior window surface.	No action required.	Condensation is relative to the quality and type of windows. Temperature differences in high levels of humidity along with individual living habits will cause condensation.
3.32 Clouding or condensation between panes of glass.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
3.33 Glass breakage.	Builder will correct only if damage is documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
3.34 Excessive drafts and leaks.	Builder will correct poorly fitted windows.	Relative to the quality and type of windows, drafts are sometimes noticeable around windows, especially during high winds. It may be necessary for the Owner to have storm windows installed to provide a satisfactory solution in high wind areas. All caulking materials expand and contract due to temperature variation and dissimilar materials. Maintenance of weather-stripping is Owner's responsibility.
3.35 Difficult to open, close or lock.	Builder will correct.	Windows should open, close and lock with reasonable pressure.

### 4. INTERIOR

<b>DOORS</b>		
4.1 Latch is loose or rattles.	No action required.	Some minor movement should be expected.
4.2 Binds, sticks or does not latch.	Builder will correct if due to faulty workmanship and materials.	Seasonal changes may cause doors to expand and contract, and are usually temporary conditions.
4.3 Warping.	Builder will correct warping which exceeds 1/4 in., measured vertically, horizontally or diagonally.	Seasonal changes may cause doors to expand and contract, and are usually temporary conditions.
4.4 Excessive opening at bottom.	Builder will correct gaps in excess of 1-1/2 in. between bottom of passage door and finished floor or 2 in. between bottom of closet door and finished floor.	Gaps under doors are intended for air flow.
4.5 Rubs on carpet.	Builder will correct.	Builder is not responsible if Owner installs carpet.

## SECTION III.

## WARRANTY STANDARDS • A. YEAR 1 COVERAGE ONLY

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.

### 4. INTERIOR

OBSERVATION	ACTION REQUIRED	COMMENTS
<b>WALLS, CEILINGS, SURFACES, FINISHES &amp; TRIMS</b>		
4.6 Cracks and separations in drywall, lath or plaster; nail pops.	Builder will correct cracks in excess of 1/8 in. in width. Builder will correct nail pops which have broken finished surface. Repair cracks and/or nail pops and touch up paint to match as close as possible, one time only. Such conditions should be reported near the end of Year 1 of the warranty period to allow for normal movement of the Home.	Minor seam separations and cracks, and other slight imperfections, are common and should be expected. Minor depressions and slight mounds at nail heads are not Defects.
4.7 Peeling of wallpaper.	Builder will correct if not due to Owner neglect or abuses.	Builder is not responsible for wallpaper installed by Purchaser. Owner is responsible for maintaining adequate ventilation in areas of high humidity, such as kitchens and bathrooms.
4.8 Separated seams in wallpaper.	Builder will correct if wall surface is readily visible.	Minor imperfections can be expected.
4.9 Lumps, ridges and nail pops in wallboard which appear after Owner has wall covering installed by himself or others.	No action required.	Owner should insure that surface to be covered is suitable for installation of wall covering.
4.10 Surface deficiencies in finished woodwork.	Builder will correct readily apparent splits, cracks, hammer marks and exposed nail heads, only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
4.11 Gaps between trim and adjacent surfaces, and gaps at trim joints.	Builder will correct gaps in excess of 1/8 in. at trim joints and 1/4 in. between trim and adjacent surfaces.	Some separation due to lumber shrinkage is normal and should be expected.
4.12 Cracks in ceramic grout joints.	Builder will correct cracks in excess of 1/8 in. one time only.	Cracking of grout joints is common and is considered routine Owner maintenance unless excessive.
4.13 Ceramic tile cracks or becomes loose.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
4.14 Cracking or deterioration of caulking.	No action required.	All interior caulking shrinks and deteriorates. Owner maintenance is required.



SECTION  
III.

## WARRANTY STANDARDS • A. YEAR 1 COVERAGE ONLY

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.

### 4. INTERIOR

#### SECTION III.

OBSERVATION	ACTION REQUIRED	COMMENTS
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#### WALLS, CEILINGS, SURFACES, FINISHES & TRIMS

4.15 Wall or trim surfaces visible through paint.	Builder will correct affected area. If greater than 75% of wall, trim piece, or ceiling is affected, entire surface will be corrected. The surface being painted shall not show through new paint when viewed from a distance of 6 feet under normal lighting conditions.	Some minor imperfections such as overspray, brushmarks, etc., are common and should be expected.
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#### FLOOR COVERING\*

4.16 Resilient flooring comes loose at edge.	Builder will correct.	Owner maintenance is required.
4.17 Gaps at seams of resilient flooring.	Builder will correct gaps of similar materials in excess of 1/8 in., and 3/16 in. where dissimilar materials abut.	Minor gaps should be expected.
4.18 Fastener pops through resilient flooring.	Builder will correct affected area where fastener has broken through floor covering.	Sharp objects such as high heels, table and chair legs, can cause similar problems, and are not covered by this Limited Warranty.
4.19 Depressions or ridges in resilient flooring at seams of sub-flooring.	Builder will correct depressions or ridges which exceed 1/8 in. in height or depth.	This is determined by placing a 6 in. straight edge over ridge or depression, with 3 in. on either side, and measuring height or depth at sub-flooring seam.
4.20 Cuts and gouges in any floor covering.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
4.21 Hollow sounding marble or tile.	No action required.	Hollow sounding marble or tile is not a deficiency of construction and is not covered under this warranty.
4.22 Fades, stains or discolors.	Builder will correct stains or spots only if documented prior to occupancy.	Fading is not a deficiency. Owner is responsible for establishing a pre-closing walk-through inspection list.
4.23 Premature wearing of carpet.	No action required.	Excessive wear in high-traffic areas such as entryways and hallways is normal. Wearability is directly related to quality of carpet.
4.24 Visible gaps at carpet seams.	Builder will correct gaps.	Seams will be apparent. Owner maintenance is required.
4.25 Carpet becomes loose or buckles.	Builder will correct one time only.	Some stretching is normal. Owner should exercise care in moving furniture.

## WARRANTY STANDARDS • A. YEAR 1 COVERAGE ONLY

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.

### 5. MECHANICAL



### SECTION III.



OBSERVATION	ACTION REQUIRED	COMMENTS
<b>ELECTRICAL</b>		
5.1 Circuit breakers trip excessively.	Builder will correct if tripping occurs under normal usage.	Ground Fault Circuit Interrupters (GFCI) are intended to trip as a safety factor. Tripping that occurs under abnormal use is not covered by this Limited Warranty.
5.2 Outlets, switches or fixtures malfunction.	Builder will correct if caused by defective workmanship or materials.	Owner should exercise routine care and maintenance. Replacement of light bulbs is Owner's responsibility.
<b>HEATING &amp; COOLING</b>		
5.3 Condensation lines clog under normal use.	No action required.	Condensation lines will clog under normal conditions. Continued operation of drain line requires Owner maintenance.
5.4 Noisy duct work.	Builder will correct oil canning noise if caused by improper installation.	When metal heats and cools, ticking and cracking may occur and are not covered by this Limited Warranty.
5.5 Insufficient heating.	Builder will correct if Heating System cannot maintain a 70 degree Fahrenheit temperature, under normal operating and weather conditions. Temperature shall be measured at a point 5 ft. above center of floor in affected area. All rooms may vary in temperature by as much as 4 degrees.	Orientation of the Home, location of rooms and location of vents will also provide a temperature differential. There may be periods when outdoor temperature falls below design temperature thereby lowering temperature in the Home. Certain aspects of the Home including, but not limited to, expansive stairways, open foyers, sunrooms or cathedral ceilings may cause abnormal variation from these Standards and are not covered by this Limited Warranty.
5.6 Insufficient cooling.	Builder will correct if Cooling System cannot maintain a 78 degree Fahrenheit temperature, under normal operating and weather conditions. Temperature shall be measured at a point 5 ft. above center of the floor in the affected room. On excessively hot days, where outside temperature exceeds 95 degrees Fahrenheit, a difference of 17 degrees from outside temperature will be difficult to maintain. All rooms may vary in temperature by as much as 4 degrees.	Orientation of the Home, location of rooms and location of vents will also provide a temperature differential. There may be periods when outdoor temperature rises above design temperature thereby raising temperature in the Home. Certain aspects of the Home including, but not limited to, expansive stairways, open foyers, sunrooms or cathedral ceilings may cause abnormal variation from these Standards and are not covered by this Limited Warranty.
5.7 Refrigerant line leaks.	Builder will correct.	Owner maintenance is required on the system.

## WARRANTY STANDARDS • A. YEAR 1 COVERAGE ONLY

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.



### 5. MECHANICAL

OBSERVATION	ACTION REQUIRED	COMMENTS
<b>PLUMBING</b>		
5.8 Pipe freezes and bursts.	Builder will correct if due to faulty workmanship or materials.	Proper winterization of pipes is considered routine maintenance and Owner should maintain suitable temperatures inside the Home.
5.9 Noisy water pipe.	Builder will correct hammering noise if caused by improper installation.	Some noise can be expected due to flow of water and pipe expansion. This is not a Defect.
5.10 Plumbing fixtures and trim fittings leak or malfunction.	Builder will correct if due to faulty workmanship and materials.	Owner maintenance is required. Scratches, tarnishing or marring must be noted on a pre-closing walk-through inspection list.
5.11 Damaged or defective plumbing fixtures and trim fittings.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list. Defective trim fittings and plumbing fixtures are covered under the manufacturer's warranty.

### 6. SPECIALTIES

<b>BATHROOM &amp; KITCHEN</b>		
6.1 Cabinet separates from wall or ceiling.	Builder will correct separation in excess of 1/4 in.	Some separation is normal. Caulking is an acceptable method of repair.
6.2 Crack in door panel.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
6.3 Warping of cabinet door or drawer front.	Builder will correct if warp exceeds 3/8 in. as measured from cabinet frame.	Seasonal changes may cause warping and may be a temporary condition.
6.4 Doors or drawers do not operate.	Builder will correct.	Owner maintenance is required.
6.5 Chips, cracks, scratches on countertop, cabinet fixture or fitting.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
6.6 Delamination of countertop or cabinet.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.
6.7 Cracks or chips in fixture.	Builder will correct only if documented prior to occupancy.	Owner is responsible for establishing a pre-closing walk-through inspection list.

## WARRANTY STANDARDS • A. YEAR 1 COVERAGE ONLY

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.

### 6. SPECIALTIES

OBSERVATION	ACTION REQUIRED	COMMENTS
<b>CHIMNEY &amp; FIREPLACE</b>		
6.8 Exterior and interior masonry veneer cracks.	Builder will correct cracks in excess of 1/4 in. in width.	Some cracks are common in masonry and mortar joints. Cracks 1/4 in. in width or less are considered Owner maintenance.
6.9 Firebox color is changed; accumulation of residue in chimney or flue.	No action required.	Owner maintenance is required.
6.10 Chimney separates from the Home.	Builder will correct separation in excess of 1/2 in. within 10 ft.	Newly built chimneys will often incur slight amounts of separation.
6.11 Smoke in living area.	Builder will correct if caused by improper construction or inadequate clearance.	Temporary negative draft situations can be caused by high winds; obstructions such as tree branches too close to the chimney; the geographic location of the fireplace; or its relationship to adjoining walls and roof. In some cases, it may be necessary to open a window to create an effective draft. Since negative draft conditions could be temporary, it is necessary that Owner substantiate problem to Builder by constructing a fire so the condition can be observed.
6.12 Water infiltration into firebox from flue.	No action required.	A certain amount of rainwater can be expected under certain conditions.
6.13 Firebrick or mortar joint cracks.	No action required.	Intense heat may cause cracking.
<b>INSULATION</b>		
6.14 Air infiltration around electrical receptacles.	No action required.	Air flow around electrical boxes is normal and is not a deficiency.

SECTION  
III.

**WARRANTY STANDARDS • B. YEARS 1 & 2 COVERAGE ONLY  
C. TEN YEAR MSD COVERAGE ONLY**

The following Warranty Standards are applicable only to warranted items stated in Section II of this Limited Warranty. Read Section II to determine if the following Warranty Standards apply.

**SECTION  
III.**

**B. SYSTEMS - YEARS 1 & 2**

OBSERVATION	ACTION REQUIRED	COMMENTS
<b>ELECTRICAL</b>		
B.1 Wiring fails to carry specified load.	Builder will correct if failure is due to improper installation or materials.	Switches, outlets and fixtures are applicable to <b>Year 1 Coverage Only</b> .
<b>HEATING AND COOLING</b>		
B.2 Duct work separates.	Builder will correct.	Owner maintenance is required.
<b>PLUMBING*</b>		
B.3 Pipe leaks.	Builder will correct.	Condensation on pipes does not constitute leakage. Faulty faucets, valves, joints and fittings are applicable to <b>Year 1 Coverage Only</b> .
B.4 Water supply stops.	Builder will correct if due to faulty workmanship or materials inside the Home.	Drought or causes other than faulty workmanship and materials will not be covered under this Limited Warranty.
B.5 Clogged drain or sewer.	Builder will correct clog within structure caused by faulty workmanship or materials.	Clogs and stoppages beyond the exterior wall are not covered by this Limited Warranty. Routine Owner maintenance and proper use is required.

**C. TEN YEAR MSD COVERAGE**

**MAJOR STRUCTURAL DEFECTS**

C.1. Major Structural Defects.	The criteria for establishing the existence of a Major Structural Defect is set forth in Section I.B.14 of this Limited Warranty Agreement.	The Warrantor will correct Major Structural Defects, limited to such actions as are necessary to restore the load-bearing capability of the component(s) affected by a Major Structural Defect.
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## REQUESTING WARRANTY PERFORMANCE

### A. Notice to Warrantor in Years 1 & 2

1. If a Defect occurs in Years 1 and 2, you must notify your Builder in writing. Your request for warranty performance should clearly describe the Defect(s) in reasonable detail.
2. Request for warranty performance to your Builder does not constitute notice to the Administrator, and it will not extend applicable coverage periods.
3. If a request for warranty performance to your Builder does not result in satisfactory action within a reasonable time, written notice must be given to RWC, Administrator, at [warranty.resolution@rwcwarranty.com](mailto:warranty.resolution@rwcwarranty.com) or forwarded by certified mail, return receipt requested to 5300 Derry Street, Harrisburg, Pennsylvania 17111, Attn: Warranty Resolution Department. This notice should describe each item in reasonable detail.
4. *Please note that a written request for warranty performance must be emailed no later than thirty (30) days after the expiration of the applicable warranty period or sent to RWC by certified mail, return receipt requested and postmarked no later than thirty (30) days after the expiration of the applicable warranty period. For example, if the item is one which is warranted by your Builder during your second year of coverage, a request for warranty performance must be emailed or mailed to RWC and postmarked no later than thirty (30) days after the end of the second year to be valid.*
5. You must provide the Warrantor with reasonable weekday access during normal business hours in order to perform its obligations. Failure by you to provide such access to the Warrantor may relieve the Warrantor of its obligations under this Limited Warranty.
6. If your Builder does not fulfill its obligations under this Limited Warranty, the Administrator will process the request for warranty performance as described in the Limited Warranty and subject to the provisions of **IV.F.**

### B. Notice to Warrantor in Years 3–10

If a Defect related to a warranted MSD occurs in Years 3 through 10 of this Limited Warranty, you must notify the Administrator to review the item within a reasonable time after the situation arises. All such notices must be presented in writing to RWC, Administrator, at [warranty.resolution@rwcwarranty.com](mailto:warranty.resolution@rwcwarranty.com) or forwarded by certified mail, return receipt requested to RWC, Ad-

ministrator, 5300 Derry Street, Harrisburg, Pennsylvania 17111, Attn: Warranty Resolution Department. Any such notice should describe the condition of the MSD in reasonable detail. Requests for warranty performance emailed or postmarked more than thirty (30) days after the expiration of the term of this Limited Warranty will not be honored.

### C. Purchaser's Obligations

1. **Your notice to the Administrator must contain the following information:**
  - a. Validation # and Effective Date Of Warranty;
  - b. Your Builder's name and address;
  - c. Your name, address, email address and phone number (including home, cell and work numbers);
  - d. Reasonably specific description of the warranty item(s) to be reviewed;
  - e. A copy of any written notice to your Builder;
  - f. Photograph(s) may be required; and
  - g. A copy of each and every report you have obtained from any inspector or engineer.
2. You have an obligation to cooperate with the Administrator's mediation, inspection and investigation of your warranty request. From time to time, the Administrator may request information from you regarding an alleged Defect. Failure by you or your appointed representative to respond with the requested information within thirty (30) days of the date of the Administrator's request can result in the closing of your warranty file.

### D. Mediation and Inspection

Within thirty (30) days following the Administrator's receipt of proper notice of request for warranty performance, the Administrator may review and mediate your request by communicating with you, your Builder and any other individuals or entities who the Administrator believes possess relevant information. If, after thirty (30) days, the Administrator has not been able to successfully mediate your request, or at any earlier time when the Administrator believes that your Builder and you are at an impasse, then the Administrator will notify you that your request has become an Unresolved Warranty Issue. At any time following the receipt of proper notice of your request for warranty performance, the Administrator may schedule an inspection of the item. You must provide the Administrator reasonable access for any such inspection as discussed in

## SECTION IV.

## REQUESTING WARRANTY PERFORMANCE



### SECTION IV.

**Section IV.A.5.** The Administrator, at its discretion, may schedule a subsequent inspection to determine Builder compliance.

**When a request for warranty performance is filed and the deficiency cannot be observed under normal conditions, it is your responsibility to substantiate that the need for warranty performance exists including any cost involved. If properly substantiated, you will be reimbursed by the Warrantor.**

#### E. Arbitration\*

**You begin the arbitration process by giving the Administrator written notice of your request for arbitration of an Unresolved Warranty Issue.** The written notice of your request for arbitration must be received by the Administrator no later than thirty (30) days following the expiration of the ten year warranty period. However, if you receive notification of an Unresolved Warranty Issue from the Administrator following the expiration of the ten year warranty period, then this period is extended and written notice of your request for arbitration must be received by the Administrator no later than thirty (30) days from the date of your receipt of notification of the Unresolved Warranty Issue. Within twenty (20) days after the Administrator's receipt of your notice of request for arbitration, any Unresolved Warranty Issue that you have with the Warrantor shall be submitted to an independent



arbitration service experienced in arbitrating residential construction matters upon which you and the Administrator agree. This **binding** arbitration is governed by the procedures of the Federal Arbitration Act, 9 U.S.C. §§ 1 *et. seq.* If you submit a request for arbitration, you must pay the arbitration fees before the matter is submitted to the arbitration service. After arbitration, the Arbitrator shall have the power to award the cost of this fee to any party or to split it among the parties to the arbitration. The arbitration shall be conducted in accordance with this Limited Warranty and the arbitration rules and regulations to the extent that they are not in conflict with the Federal Arbitration Act.

Within one (1) year after an arbitration award, either party may apply to the U.S. District Court where the Home is situated to confirm the award. The Administrator's receipt of a written request for arbitration in appropriate form shall stop the running of any statute of limitations applicable to the matter to be arbitrated until the Arbitrator renders a decision. The decision of the Arbitrator shall be final and binding upon all parties.†

Since this Limited Warranty provides for mandatory binding arbitration of Unresolved Warranty Issues, if any party commences litigation in violation of this Limited Warranty, such party shall reimburse the other parties to the litigation for their costs and expenses, including attorney fees, incurred in seeking dismissal of such litigation.\*

In Years 1 & 2, the Builder shall have sixty (60) days from the date the Administrator sends the Arbitrator's award to the Builder to comply with the Arbitrator's decision. In Years 3-10, the Warrantor shall have sixty (60) days from the date the Administrator receives the Arbitrator's award to comply with the Arbitrator's decision. Warranty compliance will begin as soon as possible and will be completed within the sixty-day compliance period with the exception of any repair that would reasonably take more than sixty (60) days to complete, including, but not limited to, repair delayed or prolonged by inclement weather. The Warrantor will complete such repair or replacement as soon as possible without incurring overtime or weekend expenses.

You may request a compliance arbitration within twenty (20) days after the sixty-day compliance period has expired by giving the Administrator written notice of your request. You must pay the fees for the compliance arbitration prior to the matter being submitted to the arbitration service.

#### F. Conditions of Warranty Performance

1. You must provide the Warrantor and/or Administrator with reasonable weekday access during normal business hours to inspect the condition of your Home and/or to perform their obligations.
2. When your request for warranty performance is determined to be a warranted issue, the Warrantor reserves the right to repair or replace the warranted item, or to pay you the reasonable cost of repair or replacement.
3. In Years 1 and 2, if your Builder defaults in its warranty obligations, the Administrator will process the request for warranty performance provided you pay a warranty service

\*FHA/VA Homeowners, refer to HUD Addendum, Section V.D.

† Homeowners in the State of New York, refer to State of New York Addendum, Section V.B.

## REQUESTING WARRANTY PERFORMANCE

- fee of \$250 for each request prior to repair or replacement.\*\*◆
4. In Years 3 through 10 you must pay the Administrator a warranty service fee of \$500 for each request.\*\*◆
  5. If the Administrator elects to award you cash rather than repair or replace a warranted item, the warranty service fee will be subtracted from the cash payment.
  6. If the Warrantor pays the reasonable cost of repairing a warranted item, the payment shall be made to you and to any mortgagee or mortgagee's successor as each of your interests may appear; provided that the mortgagee has notified the Administrator in writing of its security interest in the Home prior to such payment. Warrantor shall not have any obligation to make payment jointly to the Purchaser and mortgagee where the mortgagee has not notified your Builder or the Administrator in writing of its security interest in the Home prior to such payment. Any mortgagee shall be completely bound by any mediation or arbitration relating to a request for warranty performance between you and the Warrantor.\*
  7. Prior to payment for the reasonable cost of repair or replacement of warranted items, you must sign and deliver to the Builder or the Administrator, as applicable, a full and unconditional release, in recordable form, of all legal obligations with respect to the warranted Defects and any conditions arising from the warranted items.
  8. Upon completion of repair or replacement of a warranted Defect, you must sign and deliver to the Builder or the Administrator, as applicable, a full and unconditional release, in recordable form, of all legal obligations with respect to the Defect and any conditions arising from the situation. The repaired or replaced warranted item will continue to be warranted by this Limited Warranty for the remainder of the applicable period of coverage.
  9. If the Warrantor repairs, replaces or pays you the reasonable cost to repair or replace a warranted item, the Warrantor shall be subrogated to all your rights of recovery against any person or entity. You must execute and deliver any and all instruments and papers and take any and all other actions necessary to secure such rights, including, but not limited to, assignment of proceeds of any insurance or other warranties to the Warrantor. You shall do nothing to prejudice these rights of subrogation.

10. Any Warrantor obligation is conditioned upon your proper maintenance of the Home, common elements and grounds to prevent damage due to neglect, abnormal use or improper maintenance.



### 11. Condominium Procedures:

- a. In the case of common elements of a condominium, at all times, owner(s) of each unit affected by the common elements in need of warranty performance shall each be responsible to pay the warranty service fee (\$250 in Years 1 and 2, \$500 in Years 3 through 10) for each request for warranty performance.\*\*
- b. If a request for warranty performance under this Limited Warranty involves a common element in a condominium, the request may be made only by an authorized representative of the condominium association. If the Builder retains a voting interest in the association of more than 50%, the request may be made by unit owners representing 10% of the voting interests in the association.
- c. If a request for warranty performance under this Limited Warranty involves a common element affecting multiple units, and all affected units are not warranted by the RWC Warranty Program, the Insurer's liability shall be limited to only those units warranted by the RWC Warranty. The limit of liability shall be prorated based upon the number of units warranted by this Limited Warranty.



## SECTION IV.

\*FHA/VA Homeowners, refer to HUD Addendum, Section V.D.

◆Homeowners in Maryland, refer to Maryland Addendum, Section V.E.

Homeowners in Newark, Delaware, refer to Newark, Delaware, Addendum, Section V.A.

## ADDENDA



### SECTION V.

#### A. Newark, Delaware, Addendum

The warranty service fee as described in **Sections IV.F.3., IV.F.4. and IV.F.11.a** will be waived for homes built in the city of Newark, Delaware.

#### B. State of New York Addendum

Except as expressly provided in this Addendum, the warranties and rights listed herein are in addition to, and are not exclusive of, any warranties or rights listed in this Limited Warranty.

1. **Appliances and Items of Equipment** — Subject to other terms and conditions listed in this Limited Warranty, the exclusion concerning deficiencies in Appliances and Items of Equipment described in **Section II.E.14.** of this Limited Warranty shall not apply during the first two (2) years of the warranty term wherever (i) such Appliances and Items of Equipment are components of the Cooling, Ventilating, Heating, Electrical or Plumbing Systems; and (ii) the deficiencies in such fixtures, Appliances or Items of Equipment are the result of defective installation by your Builder.
2. **Standards — Section III.** — If the statutes of the State of New York provide greater coverage than the provisions of this Limited Warranty, those provisions shall modify the warranty to allow for the greater coverage.
3. **Alternative Dispute Resolution** — When making a request for warranty performance pursuant to **Section IV.E.** of this Limited Warranty, you have no obligation to submit to binding arbitration, nor do you have to pay any fee or charge for participation in non-binding arbitration or any mediation process concerning your request. However, any Unresolved Warranty Issues must be submitted to arbitration before a legal proceeding may be commenced. Further, if an Owner resorts to litigation, the rights and obligations imposed by **Section IV.E.** shall apply to such litigation.

#### C. State of Indiana Addendum

The warranties and rights listed above are in addition to, and are not exclusive of, any warranties listed in this book.

Notwithstanding anything contained in the attached printed form of the RWC Limited Warranty, this Limited Warranty shall include the following protection per **Section II.C.**, and is amended to read as follows:

1. **Two Year Coverage** — Commencing on the Effective Date of this Limited Warranty as specified on the Application For Warranty

form, and subject to the terms and conditions listed herein, your Builder warrants that for a period of two (2) years your Home will be free from Defects due to nonconformity with the Warranty Standards set forth in **Section III.** of this Limited Warranty. With respect to fixtures, Appliances and Items of Equipment, the Warranty is for one (1) year or the manufacturer's written warranty, whichever is less. For Year Two Coverage for Indiana Homes with VA/FHA Financing, the following provisions of the HUD Addendum **Section V.D.** are not applicable in Year 2: **Section V.D.5, Section V.D.13, Section V.D.16, and Section V.D.19.**

2. **Years 3 And 4 Coverage Only** — During the third and fourth year following the Effective Date Of Warranty as specified on the Application For Warranty form, and subject to the terms and conditions listed in this Limited Warranty, your Home will be free from Defects caused by poor workmanship and materials in its roof and roof systems.

#### D. HUD Addendum (Applicable to VA/FHA Financed Homes only)

1. **Section I.B.** — The following definition is added: Emergency Condition is an event or situation that presents an imminent threat of damage to the Home or common elements and results in an unsafe living condition due to Defects or Major Structural Defect failures that manifest themselves outside of the Warrantor's normal business hours and precludes you from obtaining prior written approval to initiate repairs to stabilize the condition and prevent further damage.
2. **Section I.B.9. Effective Date Of Warranty** — The following language is substituted: The Effective Date Of Warranty will be the date on which closing or settlement occurs in connection with the initial sale of the Home. In no event will the Effective Date Of Warranty be later than the date of FHA endorsement of your Mortgage on the Home.
3. **Section I.B.14. Major Structural Defects** — The following language is substituted for a-c.: A Major Structural Defect is actual physical damage to the designated load-bearing portions of a Home caused by failure of such load-bearing functions to the extent that the Home becomes unsafe, unsanitary, or otherwise unlivable. The following language is added: Delamination or rupture of roof sheathing shall be deemed a Major Structural Defect in need of warranty performance.

4. **Sections II.A.5 and II.A.6** — Foreclosure does not void the Limited Warranty for VA/FHA Financed Homes only.
5. **Section II.C.1. One Year Coverage** — The following language is added: Notwithstanding anything to the contrary contained in this Limited Warranty, during the first year of coverage, your Builder will repair or restore the reliable function of Appliances and Equipment damaged during installation or improperly installed by your Builder. In addition, your Builder will correct Construction Deficiencies in workmanship and materials resulting from the failure of the Home to comply with standards of quality as measured by acceptable trade practices. Construction Deficiencies are Defects (not of a structural nature) in the Home that are attributable to poor workmanship or to the use of inferior materials which result in the impaired functioning of the Home or some part of the Home. Defects resulting from your abuse or from normal wear and tear are not considered Construction Deficiencies.
6. **Section II.C.4. Condominium Coverage** — The following language is substituted: The Limited Warranty shall only apply to warranted common elements which are those portions of the defined Electrical, Heating, Ventilating, Cooling, Plumbing and structural Systems which serve two (2) or more residential units, and are contained wholly within a residential structure that, if defective, would constitute a health or safety condition for the occupants. Examples of common elements which are covered by this Limited Warranty are hallways, meeting rooms, stairwells and other spaces wholly within the residential structure serving two (2) or more units; and structurally attached balconies, arches and decks. Examples of common elements which are not covered under this Limited Warranty are club houses, recreational buildings and facilities, walkways, exterior structures, or any other non-residential structure which is part of the condominium.
7. **Section II.C.** — The following coverage is added for the **State of Colorado ONLY**: The Builder's warranty for basement slabs in the State of Colorado is extended from the first through the fourth year.
8. **Section II.D.** — The following statement is added: This agreement is non-cancelable by the Warrantor.
9. **Section II.D.9.** is deleted.
10. **Section II.D.10.** — The following language is added: Repairs to the Home may be made without the prior written authorization of the

Warrantor only in the event an Emergency Condition arises that necessitates repairs be made for the sole purpose of protecting the Home from further damage. You must notify the Warrantor as soon as possible, but in no event, later than five (5) days after the repairs have been made in order to qualify for reimbursement. An accurate, written record of the repair cost must accompany your notification.

11. **Section II.E.1.d.** — The following language is substituted: Loss or damage which is covered by any other insurance or for which compensation is granted by state legislation.
12. **Section II.E.1.e.** — The following language is substituted: resulting directly or indirectly from flood, waves, tidal water, overflow of a body of water, or spray from any of these (whether or not driven by wind), water which backs up from sewers or drains, changes in the water table which were not reasonably foreseeable, wetlands, springs or aquifers. Surface water and underground water which cause an unforeseeable hydrostatic condition with resultant damage to the structure are covered.
13. **Section II.E.2.d.** is deleted.
14. **Section II.E.2.m.** — The following language is substituted: any portion of a public Water Supply System, including volume and pressure of water flow.
15. **Section II.E.2.o.** — The following language is substituted: any portion of a public Sewage Disposal System, including design.
16. **Section II.E.2.p.** — exclusion is deleted.
17. **Section II.E.5.** — The following language is substituted: Consequential Damages to personal property are excluded. Consequential Damages to real property as a result of a Defect or repair of a Defect are covered.
18. **Section II.E.9.** — The following language is added: Warranted Defects repaired as a result of emergency property protection measures as described and defined in this addendum are covered.
19. **Section III.A.**
  - a. **Site Work** — The following language is substituted:
    - (1) **3.18 (Action Required)** If final grading was performed by the Builder, he will replace fill in excessively settled areas.
  - b. **Floor Covering** — The following language is added:
    - (1) **4.26 (Observation)** Gaps or cracks between finished floor boards. **(Action Required)** Builder will correct gaps or

SECTION  
V.



SECTION  
V.

cracks which exceed 1/8 in. in width. **(Comments)** Finished wood floors expand and contract due to humidity changes in your Home. Cracks and gaps which shrink and disappear in non-heating seasons are considered normal.

- (2) **4.27 (Observation)** Cupping, crowning or loose finished floor boards. **(Action Required)** Builder will correct only if caused by a Defect in installation. **(Comments)** Finished wood flooring cups from gaining or losing moisture on one side faster than the other. Some cupping and crowning should be considered normal due to growth rings in the tree and the part of the tree used. The Builder is not responsible for natural properties of the product, or for climatic conditions and personal living habits which can affect moisture content of floor boards. Cupping or crowning action may have loosened nails or adhesive. Owner is responsible if condition is caused by conditions beyond Builder's control.
- (3) **4.28 (Observation)** Ceramic tile cracks or loosens. **(Action Required)** Builder will correct only if documented prior to occupancy. **(Comments)** Owner is responsible for establishing a pre-closing walk-through inspection list.
- 20. **Section III.B.6.** — The following language is added: **(Observation)** Septic system fails. **(Action Required)** Builder will correct if damage is due to poor workmanship or materials, which are not in conformance with Sewage Enforcement Officer's instructions as per design and installation only. **(Comments)** Builder is required to abide by state or local requirements for the installation of on-site sewage disposal system. Any deficiency or failure which occurs or is caused by a condition other than faulty workmanship or materials, such as design, is not covered by this Limited Warranty. Owner is responsible for routine maintenance of system, which may include, but not be limited to: pumping the septic tank; adding chlorine to a chlorinator; and refraining from driving or parking vehicles or equipment on the system. Damages caused by freezing, soil saturation, underground springs, water run-off, excessive use and an increase in level of water table are among causes not covered by this Limited Warranty.
- 21. **Section IV.E. Arbitration** — The following language is added: The judicial resolution of disputes is not precluded by this warranty and

may be pursued by the homeowner at any time during the dispute resolution process.

- 22. **Section IV.E. Arbitration** — Because HUD does not require mandatory arbitration, the following is deleted: Since this Limited Warranty provides for mandatory binding arbitration of disputes, if any party commences litigation in violation of this Limited Warranty, such party shall reimburse the other parties to the litigation for their costs and expenses, including attorney fees, incurred in seeking dismissal of such litigation.
- 23. **Section IV.F.3., F.4. and F.11.a.** — The following language is substituted: In the first two (2) years, if your Builder does not fulfill its obligations under this Limited Warranty, the Insurer will be responsible for your Builder's obligations, subject to a one-time warranty service fee of \$250. The Insurer's liability in Years 3 through 10 under this Limited Warranty is subject to a warranty service fee of \$250 per request for warranty performance. In each instance, you must pay the fee prior to the Insurer's repair or replacement. In the event of payment, the fee will be subtracted from the cash payment. In the case of the common elements of a condominium, the warranty service fee shall be \$250 per Home affected by each common element in need of service, limited to a maximum of \$5,000 per free standing structure.
- 24. **Section IV.F.6.** — The following language is added: Where a warranted Defect is determined to exist and where the Warrantor elects to pay the reasonable cost of repair or replacement in lieu of performing such repair or replacement, the cash offer must be in writing. You will be given two (2) weeks to respond. Cash offers over \$5,000 are subject to an on-site review by a HUD approved fee inspector (inspection costs will be paid by the Warrantor) unless:
  - a. the cash offer is made pursuant to a binding bid by an independent third party contractor, which will accept an award of a contract from you pursuant to such bid;
  - b. payment is being made in settlement of legal action;
  - c. you are represented by legal counsel.

**E. Maryland Addendum**

You should contact the Administrator personally to verify the existence of your Warranty. Further, you should report any Warranty problems, which are not promptly resolved by your Builder, to the Administrator.

- 1. **Section IV.F.3. and IV.F.4.** are not applicable for the state of Maryland.

## EXHIBIT U

### Section 6 -- Miscellaneous Information Not Covered Elsewhere in this Report

1. All prospective purchasers should also be aware that Awakea at Mehana is within and a part of the master planned community known as the Mehana at Kapolei, and is subject to certain conditions and restrictions contained in various documents that affect the Community, including the covenants, conditions, restrictions, reservations, agreements, obligations and other provisions contained in the Master Declaration of Covenants, Conditions, Restrictions and Easements for Mehana at Kapolei, as the same may be amended and/or supplemented.
2. All prospective purchasers should also be aware that the Private Yard Areas, if any are available to Units in the Community, are not subdivided lots, but are exclusive use areas appurtenant to the Unit(s).
3. Developer may revise the specimen deed and sales contract for the Community to conform with any future amendments that may be made to the Declaration and the Community.
4. Each prospective purchaser should review the Condominium Map Site Plan so that they may identify easement areas benefiting the community, which easements may affect the use of the Private Yard Area, if any.
5. Buyer may landscape the easement area(s) within a Private Yard Area, if any, as long as you do not interfere with the use of the easement area(s) affecting your unit. The grantee of the easement area, whether it is HECO, the Community Association, the Master Association or an agency of the County, will have the right to trim and keep trimmed any plants within the easement area that may be in the way. Also, you may not be permitted to construct other structures in the area depending on the nature of the easement. Such structures may require the grantee's approval. Additionally, should the grantee determine that it must remove any plants or foliage within the easement area, it may NOT be obligated to replace them, but rather will only be obligated to restore the surface of the ground within the easement area as much as the grantee determines is reasonably possible.
6. Exterior elevations, door and window locations and types may be modified from that reflected on the Condominium Map.
7. HRS 672E contains important requirements you must follow before you file a lawsuit or other action for defective construction against the contractor who designed, repaired, or constructed your unit or facility. Ninety days before you file your lawsuit or other action, you must serve on the contractor a written notice of any construction conditions you allege are defective. Under the law, a contractor has the opportunity to make an offer to repair and/or pay for the defects. You are not obligated to accept any offer made by a contractor. There are strict deadlines and procedures under the law and failure to follow them may negatively affect your ability to file a lawsuit or other action.
8. Certain portions of the Community may be used as a sales office. The buyer is aware that noise and traffic from these areas may cause a disturbance. The buyer is responsible for investigating noise levels in and around the Community to determine if the buyer is satisfied with the acoustics and noise levels within the unit and within the Community as a whole. Developer makes no guaranty as to these matters now or in the future.

9. The buyer should be aware that the Community may be periodically affected by certain environmental conditions due to historical, existing and prospective surrounding conditions and uses. Those uses include, without limitation, industrial, commercial, recreational, and other non-residential uses, animal husbandry and pasture uses, and a railroad easement. Overhead and underground radio transmission wires and high voltage electric lines and facilities may be located within and around the Community. Such facilities purportedly may emit electric and magnetic emissions. Aircraft may fly in the proximity of or over or close to the Community. Buyers should also be aware that ongoing construction, commercial and industrial uses, plantation harvesting and farming may temporarily generate heavy dust and/or other nuisances. Pesticides and fertilizers were or may be used in the plantation harvesting and farming and may have long term effects on the land, water and environment.

10. Buyers are encouraged to find out which parking stalls are available for their use and the location of the parking stalls.

11. The buyer should be aware that the Community and/or the Unit may be affected by traffic, aircraft noise, and adverse effects from the Kalaeloa Community Development District and that an expansion of military uses and associated adverse impacts may occur within Kalaeloa.

12. The buyer should be aware that the Community is located within the contours of the Honolulu International Airport 1987 Noise Contour Map.

13. The buyer should be aware that the Community is located near the OR&L Historic Railway and the operation of trains on the railway may result in noise and other impacts associated with the operation of trains.

14. Buyers should be aware that the Community includes mixed uses, and is not exclusively a residential community, and that the presence of the mixed uses in the Community may adversely affect an Owner's use and enjoyment of their Unit.

15. Buyers shall comply with the County approved Solid Waste Management Plan attached hereto as Exhibit W and are encouraged to recycle waste materials accordingly.

16. Developer has the reserved right to control the Association in accordance with Section 514B-106(d) of the Act, during which time Developer, or persons designated by Developer, may appoint and remove the officers and members of the Board of Directors. Such period of control of the Association by Developer (the "**Control Period**") shall terminate no later than the earlier of:

(a) Sixty (60) days after conveyance of seventy-five percent (75%) of the common interest appurtenant to Units to Owners other than Developer or an affiliate of Developer;

(b) Two (2) years after Developer has ceased to offer Units for sale in the ordinary course of business;

(c) Two (2) years after any right to add new Units was last exercised; or

(d) The day Developer, after giving written notice to Unit Owners, Records an instrument voluntarily surrendering all rights to control activities of the Association.

Developer may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Control Period, but in such event Developer may require, for the duration of the period of Developer control, that specified actions of the Association or Board, as described in a Recorded instrument executed by Developer, be approved by Developer before they become effective, provided, however, that during the Control Period (i) Developer must provide a copy of all amendments to the Department of Veterans Administration (the "VA"), and (ii) the Association may not make any material amendments or take any extraordinary actions as described in VA Pamphlet 26-7 revised, as may be applicable, without the approval of VA.

Until such time as the Declarant has turned over administration of the Community to the Association, Declarant shall have the right to amend the Bylaws.

17. Certain Units in the Community have been preliminarily designated as affordable housing for owner-occupants who meet the income qualification eligibility requirements of the City and County of Honolulu Department of Planning and Permitting and have otherwise qualified per DPP affordable housing buyer eligibility requirements, and only in accordance with and to satisfy certain affordable housing conditions mandated by the City and County of Honolulu Department of Planning and Permitting ("**County Affordable Housing Conditions**"). Affordable Units shall be marketed for sale to persons with household incomes not exceeding one hundred twenty percent (120%) of the Oahu Median Income Level, as determined by DPP. Depending on the income level of the Buyer, each designated Affordable Home, if any, will be conveyed subject to either a four (4) year or eight (8) year buy-back restriction benefitting the City and County of Honolulu that limits the lease, rental, or resale of the Home during the restriction period.

18. Developer, D.R. Horton-Schuler Homes, LLC, is the Community real estate broker. The developer's manager, Vertical Construction Corporation, is the general contractor for the Community.

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THIS EXHIBIT IS NOT INTENDED TO BE A THOROUGH AND EXHAUSTIVE EXPLANATION OF THE MISCELLANEOUS INFORMATION NOT COVERED ELSEWHERE IN THIS REPORT CONTAINED IN THE DECLARATION, BY LAWS, CONDOMINIUM MAP, COMMUNITY RULES AND OTHER CONDOMINIUM DOCUMENTS. WHILE A PURCHASER CAN USE THIS AS A GENERAL SUMMARY, PURCHASERS SHOULD REFER TO THE CONSTITUENT DOCUMENTS OF THE COMMUNITY. IF ANY CONFLICT OR DIFFERENCE EXISTS BETWEEN THIS EXHIBIT AND THE DECLARATION, BYLAWS, CONDOMINIUM MAP, COMMUNITY RULES OR OTHER DOCUMENTS OF THE COMMUNITY, SUCH DOCUMENTS WILL CONTROL. CAPITALIZED TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN TO THEM IN THE DECLARATION.

**EXHIBIT V**  
(Unilateral Agreement and Declaration for Conditional Zoning  
recorded as Document No. 3195643)

25  
SA  
BACE



L-731  
STATE OF HAWAII  
OFFICE OF ASSISTANT REGISTRAR  
RECORDED  
NOV 19, 2004 10:00 AM  
Doc No(s) 3195643  
on Cert(s) 493,720



28 1/1 25

/s/ CARL T. WATANABE  
ASSISTANT REGISTRAR

KM

LAND COURT

REGULAR SYSTEM

After recordation, return by mail  pick up  to:

D.R. Horton - Schuler Division  
828 Fort Street Mall, 4<sup>th</sup> Floor  
Honolulu, Hawaii 96813

Title of Document:

Unilateral Agreement And Declaration For Conditional Zoning

Party To Document:

C.R. CHURCHILL, D.A. HEENAN, RICHARD W. GUSHMAN, II and RONALD J. ZLATOPER, the duly appointed, qualified and acting TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED, acting in their fiduciary and not in their individual capacities- Declarant

Property Description:

THOSE certain portions of parcels of land situate at Honouliuli, Ewa, City and County of Honolulu, State of Hawaii, containing 149.5 acres more or less, being a portion of Lot 13880 of Land Court Application 1069 (Map 1055); a portion of Lot 15685 of Land Court Application 1069 (Map 1208);

and all of Lot 13883 of Land Court Application No. 1069 (Map 1055), further described as Tax Map Key: 9-1-16: 1 (por.), 122 (por.), 123 (por.) and 124 , as more particularly shown on Exhibit "A-1" attached hereto and made a part hereof.

### **UNILATERAL AGREEMENT & DECLARATION FOR CONDITIONAL ZONING**

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this 17th day of November, 2004, by C.R. CHURCHILL, D.A. HEENAN, RICHARD W. GUSHMAN, II and RONALD J. ZLATOPER, the duly appointed, qualified and acting TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED, acting in their fiduciary and not in their individual capacities, whose business address is 1001 Kamakila Boulevard, Kapolei, Hawaii 96707 (hereinafter referred to as "Declarant").

### **WITNESSETH:**

WHEREAS, Declarant is the owner in fee simple of certain portions of parcels of land situate at Honouliuli, Ewa, City and County of Honolulu, State of Hawaii, containing 149.5 acres more or less, being a portion of Lot 13880 of Land Court Application 1069 (Map 1055); a portion of Lot 15685 of Land Court Application 1069 (Map 1208); and Lot 13883 of Land Court Application No. 1069 (Map 1055), further described as Tax Map Key: 9-1-16: 1 (por.), 122 (por.), 123 (por.) and 124 , as more particularly shown on Exhibit "A-1" attached hereto and made a part hereof, more particularly described by metes and bounds in Exhibit "A-2" attached hereto and made a part hereof, and also described by Land Court lot in Exhibit "A-3" attached hereto and made a part hereof (the "Land"), and desires to make the Land subject to this Unilateral Agreement; and

WHEREAS, Declarant plans to develop a commercial-residential mixed use project known as Mehana at Kapolei on the Land (the "Project"); and

WHEREAS, the City Council (the "Council") of the City & County of Honolulu (the "City"), pursuant to the provisions of the Land Use Ordinance ("LUO"), Revised Ordinances of Honolulu 1990 ("ROH") Section

21-2.80, as amended, relating to conditional zoning, is considering a change in zoning under the LUO of the Land from AG-1 Restricted Agricultural District to BMX-3 Community Business Mixed Use District with a 45-foot height limit, AMX-2 Medium Density Apartment Mixed Use District with a 45-foot height limit, AMX-2 Medium Density Apartment Mixed Use District with a 60-foot height limit, A-1 Low Density Apartment District with a 30-foot height limit, R-5 Residential District, and P-2 General Preservation District ("the zone change"); and

WHEREAS, a public hearing regarding the change in zoning, Bill 73 (2004), was held by the Council on November 10, 2004; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 483 that the said zone change be approved, subject to the following conditions contained in this Declaration to be made pursuant to the provisions of ROH Section 21-2.80, as amended, relating to conditional zoning, and to become effective on the effective date of the zoning ordinance approving the change of zoning (the "Rezoning Ordinance").

NOW, THEREFORE, Declarant, for itself and its successors and assigns, hereby covenants and declares as follows:

- i. Declarant shall develop the Land in substantial compliance with the City of Kapolei Urban Design Plan, except where modified below, and plans shown in Exhibits B-1, B-2, B-3, and B-4 attached hereto and made a part hereof:
  - a. Residential
    - i. The building heights within the AMX-2 District will vary and building massing will be "tiered" up to the maximum heights indicated on the zoning map, incorporating sloped roofs and covered lanais.
    - ii. Single-family dwellings are permitted provided multi-family dwellings, defined as those with 3 or more dwellings within a single structure, shall be no less than 51 percent of the total number of dwellings in the Project.

Single-family and two-family dwelling units shall not be permitted within the AMX-2 and BMX-3 Districts.

- iii. Minimum setback requirements shall be in accordance with the Land Use Ordinance. The required front yard will vary according to a "front yard averaging", thereby creating an articulated building front.
  - iv. An approximate two-acre site for BMX-3 zoning is permitted on the Land.
  - v. Front-loaded single-family housing products are permitted. Rear-loaded homes will be the predominate single-family home featured along the two main collector roads as shown on Exhibit B-1, the Updated Preliminary Land Use Plan dated August 19, 2004.
  - vi. With regards to block sizing, the Declarant is required to substantially conform to the roadway grid as reflected in the Updated Preliminary Land Use Plan dated August 19, 2004 (Exhibit B-1).
- b. Parks and Open Space
- i. Kapolei Green shall be dedicated to the City and shall include the amenities and features as contemplated pursuant to D.R. Horton's letter dated August 26, 2004, attached hereto (Exhibit C-1) and made a part hereof, to the Department of Parks and Recreation (DPR) and DPR's written reply to D.R. Horton dated September 13, 2004, attached hereto (Exhibit C-2) and made a part hereof, in which D.R. Horton agreed to provide a clean, graded, grassed and irrigated central park with a total area of approximately 4.5 acres. DPR agreed to recommend the proposed park as planned for dedication to the City once constructed. Additional improvements, if provided by the Declarant at the request and/or agreement of the City, would qualify as excess Park Dedication Credits for the Declarant. Final

terms of such an arrangement shall be subject to a formal agreement, between the Declarant and the City when such improvements are sought.

- ii. The Declarant shall establish parks and pedestrian and bike paths as shown on the Updated Preliminary Land Use Plan dated August 19, 2004 (Exhibit B-1), including the connection of the parks and the elementary school fields and playground (which also could serve as an active open space) by a landscaped linear path.
- iii. The "Village Walk", as originally planned to be within the approximate center of the Mehana at Kapolei site, is now being relocated along the Project's mauka boundary. The Declarant shall construct Village Walk improvements such as an 8-foot walkway, landscaping and street furniture, up to their property line, as shown in Exhibit B-2, Village Walk Concept Plan A dated August 19, 2004, attached hereto and made a part hereof. These improvements shall supplement the adjoining improvements to be provided by The Estate of James Campbell or its successor entities, as shown on the Village Walk Concept Plan A dated August 19, 2004 (Exhibit B-2).
- iv. A reserve area for a possible roadway in proximity to the makai edge of the school site shall be provided by the Declarant for connection within the area to Ft. Barrette Road. This future connection point and eventual road alignment could be different from that represented on the Updated Preliminary Land Use Plan dated August 19, 2004 (Exhibit B-1), as negotiations between Declarant and various governmental agencies are finalized. The reserve area shall remain in effect unless the State Department of Transportation or other governmental agencies, as appropriate, determine that a roadway connection to Ft. Barrette Road is not permitted. In that event, the reserve shall terminate and the area shall be available for residential development.

- c. Roadways
    - i. Employing Subdivision Street Standards as adopted by the Department of Planning and Permitting of the City and County of Honolulu (DPP) is permitted.
    - ii. Eliminate from the Kapolei Urban Design Plan any references to the collector road that borders the mauka edge of the property, subject to the relocation of the Village Walk as discussed above, and Renton Road Extension, which is an unconnected remnant along the makai boundary of Mehana.
  - d. Regional Drainage
    - i. The regional drainage corridor abutting the mauka side of the OR&L right-of-way, shall be developed as a grass-lined drainage system with trees along a bicycle path, open for public use, within or abutting the drainage system, as shown in concept in the Drainage Corridor Concept Plan dated August 27, 2004, attached hereto as Exhibit "B-3" and made a part hereof. The final plans for the drainage system shall be subject to the approval of the Director of DPP. The Declarant shall improve the drainage system as described and dedicate the drainage system subject to a schedule approved by the Director of DPP. Hardscaping within the drainage facility will be permitted for easements for electrical transmission, fuel and sewerage, bike and pedestrian paths and vehicular crossings.
    - ii. The Declarant shall provide public pedestrian and vehicular connections to the regional drainage corridor as shown in the Updated Preliminary Land Use Plan dated August 19, 2004 (Exhibit B-1).
2. Prior to the approval of the first building permit by DPP, the Declarant shall submit "Mehana Design Guidelines" for the Project (except for the school site) illustrating site planning guidelines and

building design features, including a variety of elevations, fencing, roofing elements, landscaping, lanais, etc. for approval by the City of Kapolei Design Advisory Board ("DAB") and DPP. The Mehana Design Guidelines shall be consistent with the City of Kapolei Urban Design Plan ("Kapolei UDP") in effect. Thereafter, individual site plans and front elevations for all project phases shall be submitted to DPP for approval and shall evidence general conformance with the design concepts of the Mehana Design Guidelines. Modifications to the Mehana Design Guidelines shall be subject to approval by the Director of DPP. Said site plans for all project phases shall be deemed approved by the Director of DPP if no comments are received by Declarant within 45 days of submittal to DPP.

The Mehana Design Guidelines are intended to serve as interim guidelines until amendments to the Kapolei UDP are approved by the Council. As such, conformance with the Mehana Design Guidelines shall no longer be required upon approval by the Council of appropriate amendments to the Kapolei UDP incorporating these or other design guidelines that the Council deems appropriate.

Any development that is inconsistent with the Mehana Design Guidelines and the then-effective Kapolei UDP shall not be permitted until appropriate amendments to the Kapolei UDP are approved by the Council.

3. Prior to approval of subdivision applications (except those for bulk lot purposes), the Declarant shall submit, in coordination with the State Department of Transportation (DOT) and the City Department of Transportation Services (DTS), a roadway master plan for roadways within and adjacent to the Project consistent with the roadway layout provided in the Updated Preliminary Land Use Plan, dated August 19, 2004 (Exhibit B-1), to DPP for review and approval. The roadway master plan shall include road cross-sections and associated land uses. An analysis of auxiliary left and right turn lane lengths shall also be provided as may be required by DPP. The plan shall also take into account the need to provide enhanced pedestrian and bicycle facilities, as presented in the Declarant's zone change application, as well as future transit stop locations. An identification of which intersections may warrant future traffic signal

installation shall also be included. The development of the Land shall conform to the approved roadway master plan, provided that the plan may be amended from time to time with the prior written approval of the Director of DPP.

4. Transportation. The Declarant shall carry out the following requirements related to traffic and transportation improvements:
  - a. Prior to applying for building permits for any additional dwelling unit beyond 400 dwelling units, the Declarant shall consult with the State DOT, DTS and DPP, and submit for approval to the Director of DPP a supplemental update to the Traffic Impact Assessment Report (Declarant's Traffic Impact Study dated May 5, 2004, hereinafter called the "TIAR"), or provide supplemental information to the Traffic Impact Assessment Report updates required by the conditions relating to traffic and transportation improvements attached to the enactment of Bill 72 (2004), as amended. The Declarant's submittal, hereinafter called the "Supplemental Traffic Impact Assessment Report (TIAR)", shall include a Traffic Management Plan (TMP) identifying Traffic Demand Management (TDM) strategies to reduce area wide traffic congestion. The Supplemental TIAR area shall generally be that area described in Exhibit D, attached hereto and made a part hereof. Prior to applying for building permits for any additional dwelling unit beyond 800 dwelling units, the Declarant shall submit an update to the Supplemental TIAR, identifying roadway infrastructure improvements that are or will be needed to support the Project during its various stages including an analysis of traffic signal warrants.
  - b. Fund and/or construct its share of roadway improvements, described in the TIAR and supplemental updates, as may be required by State and City transportation agencies, within the Project area or directly attributable to the Project .
  - c. On an annual basis, Declarant shall participate in a meeting to be organized by DPP and to include State DOT and DTS to discuss the coordination and implementation of traffic improvements in and around the City of Kapolei and the need

for additional studies. This condition for participation in an annual meeting shall be deemed satisfied and shall be fully released upon the approval of the last building permit of the last phase of the Project. In its annual report to the City required by Condition 14, the Declarant shall report on the status and scheduling of its implementation of traffic improvements related to the Project.

5. The Declarant shall develop the necessary potable and non-potable water system improvements to serve the Project, including the school site and the drainage corridor discussed in Condition 1.d. herein, as may be required by the Board of Water Supply, prior to any subdivision or building permit approval, whichever comes first.
6. Prior to subdivision, residential cluster or residential building permit approval, the Declarant shall execute an agreement to participate in an affordable housing plan acceptable to DPP in accordance with adopted rules. The agreement shall provide for no less than 30% of the total residential units of the Project to be delivered to households with incomes up to and including 120 percent of median income or less, including no less than 10 percent of the total units to be delivered to households with incomes up to and including 80 percent of median income or less. "Median income" means the median income for Honolulu, adjusted for family size, as determined by the United States Secretary of Housing and Urban Development.
7. The Declarant shall contribute to the development, funding, and/or construction of school facilities, on a fair-share basis, as determined by and to the satisfaction of the State Department of Education (also referred to as "DOE"). Terms of the contribution agreement shall be agreed upon in writing by the Declarant and the DOE, prior to obtaining building permits.
8. Prior to building permit approval, the Declarant shall submit to the Department of Health (DOH) and DPP, a solid waste management plan as may be required by the DOH. The Declarant shall comply with the approved solid waste management plan.

9. Prior to grading permit approval, the Declarant shall prepare and submit a dust control plan to DPP and DOH, as may be required by DOH. The Declarant shall comply with the approved dust control plan.
10. The Declarant shall inform all prospective purchasers or lessees of single- and multi-family dwellings in the Project of all of the following:
  - a. The potential impacts, including but not limited to traffic, aircraft noise, and adverse effects from the Kalaeloa Community Development District and that an expansion of military uses and associated adverse impacts may occur within Kalaeloa;
  - b. The development is located within the contours of the Honolulu International Airport 1987 Noise Contour Map; and
  - c. The development is located near the OR&L Historic Railway and the operation of trains on the railway may result in noise and other impacts associated with the operation of the trains.

The disclosure shall be made through a Disclosure Document acceptable in form and content to the DPP and the Corporation Counsel. The Disclosure Document shall be signed by the purchaser or lessee as an affirmative acknowledgment of the potential impacts. All disclosures shall be included in any deed or lease of residential property and any applicable Declaration of Covenants, Conditions and Restrictions, and shall be recorded so as to run with the land of the affected property. The form, content, and manner of recordation of the disclosures shall be approved by the DPP and the Corporation Counsel prior to any subdivision approval (except those for bulk lot purposes) or building permit approval, whichever occurs first.

11. The Declarant shall submit a revised drainage master plan and implementing schedule for the drainage improvements required for the development of the Project. The master plan shall be approved by the Director of DPP prior to any subdivision approval (except those for bulk lot purposes). The Declarant shall comply with the revised drainage master plan and implementing schedule.

12. If, during construction, any previously unidentified archaeological site or remains (such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walls) are encountered, the Declarant shall stop work and contact the State Historic Preservation Division (SHPD) immediately. Work in the immediate area shall be stopped until the SHPD is able to assess the impact and make further recommendations for mitigative activity.
13. The Declarant acknowledges that approval of this zone change does not constitute compliance with other Land Use Ordinance or governmental agencies' requirements. They are subject to separate review and approval. The Declarant shall be responsible for ensuring that the final plans for the Project comply with all applicable Land Use Ordinance and other governmental agencies' provisions and requirements.
14. On an annual basis, the Declarant shall submit a written status report to DPP documenting its satisfaction of and/or describing its progress toward complying with each condition of approval for this zone change. The status report shall be submitted to DPP by December 31 of each year until such time as DPP has determined that all conditions of approval have been satisfied. If a status report is not submitted within the time specified, the DPP may defer the processing of permits until a status report is submitted.
15. In the event of noncompliance with any of the conditions set forth herein, the Director of Planning and Permitting shall inform the Council and may initiate action to rezone the Land, seek civil enforcement, or take appropriate action to terminate or stop the Project until applicable conditions are met.
16. Failure to fulfill any conditions to the zone change may be grounds for revocation of the permits issued under this zoning and grounds for the enactment of ordinances making further zone changes, including revocation of the underlying zoning, upon initiation by the proper parties in accordance with the Revised City Charter.

17. Declarant expressly acknowledges and agrees that its obligations hereunder shall survive the termination of the Estate of James Campbell and shall be binding upon its successors and assigns.

NOW, THEREFORE, Declarant hereby makes the following additional Declarations:

For purposes of this document, any references to a specific City department or agency shall be deemed to include a reference to any successor department or agency.

That the conditions imposed herein are reasonably conceived to fulfill public service demands created by the requested change in zoning and are rationally related to the objective of preserving the public health, safety and general welfare and the further implementation of the General Plan of the City and County of Honolulu.

The development of the Land shall conform to the aforesaid conditions with the understanding that, at the request of the Declarant and upon the satisfaction of the conditions set forth in this Unilateral Agreement, the Department of Planning and Permitting may fully or partially release, as applicable, any of the foregoing conditions that have been fulfilled.

That if there are any conflicts between this Unilateral Agreement and any previous unilateral agreement(s) applicable to the Land, the terms and conditions of this Unilateral Agreement shall apply.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the Land and shall bind and constitute notice to all the parties hereto and subsequent lessees, grantees, assignees, mortgagees, lienors, successors, and any other persons who have or claim to have an interest in the Land, and the City and County of Honolulu shall have the right to enforce this Declaration by rezoning, appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may file a petition with the Department of Planning and Permitting for amendment or removal of any conditions or termination of this Declaration, such petition to be processed in the same manner as petitions for zone changes.

DECLARANT: TRUSTEES UNDER THE WILL AND OF  
THE ESTATE OF JAMES CAMPBELL,  
DECEASED, acting in their fiduciary  
and not in their individual  
capacities



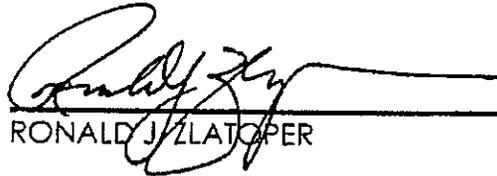
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C.R. CHURCHILL



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D.A. HEENAN

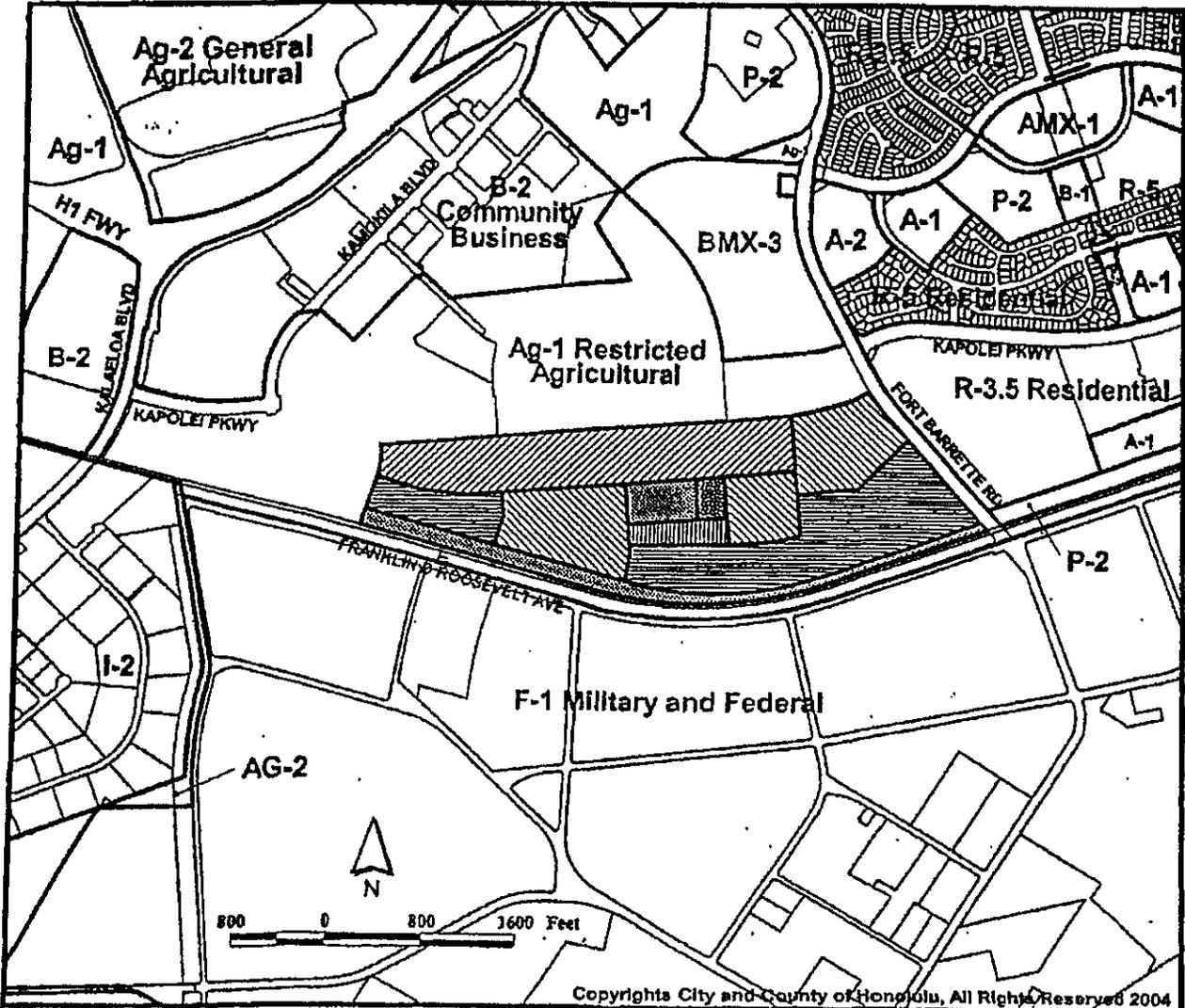


\_\_\_\_\_  
RICHARD W. GUSHMAN, II



\_\_\_\_\_  
RONALD J. ZLATOPER





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**Zone Change Legend**

-  From AG-1 to AMX-2 with 60-ft. height limit
-  From AG-1 to BMX-3 with 45-ft. height limit
-  From AG-1 to AMX-2 with 45-ft. height limit
-  From AG-1 to A-1 with 30-ft. height limit
-  From AG-1 to R-5
-  From AG-1 to P-2



**PORCION OF ZONING MAP NO. 12 (EWA BEACH-IROQUOIS POINT)**

**APPLICANT:** D. R. Horton, Schuler Division  
**TAX MAP KEY(S):** 9-1-16: Portion 1, Portion 122, Portion 123, and 124  
**FOLDER NO.:** 2004/Z-5  
**LAND AREA:** Approximately 149.5 Acres  
**PREPARED BY:** Department of Planning and Permitting City and County of Honolulu  
**PUBLIC HEARING:** Planning Commission City Council

ORD. NO.  
EFF. DATE

2004/Z-5

**EXHIBIT A-1**

**BILL**

EXHIBIT A-2

Being all of Lot 13883 and portions of Lots 13880 and 13881 as shown on Map 1055 and a portion of Lot 13884 as shown on Map 1056 of Land Court Application 1069.

Situate at Honouliuli, Ewa, Oahu, Hawaii.

Beginning at the Southeast corner of this parcel of land, on the West side of Barbers Point NAS Access Road (Project No. D-AD-1(2)), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAPUAI NEW" being 18,663.16 feet South and 1,377.40 feet East and running by azimuths measured clockwise from true South:

1. 70° 00' 1,390.31 feet along Exclusion 2 of Land Court Application 1069;
2. Thence along same, on a curve to the right with a radius of 3,418.00 feet, the chord azimuth and distance being:  
87° 41' 30" 2,077.42 feet;
3. 105° 23' 2,049.83 feet along same;
4. 195° 23' 530.00 feet along the remainder of Lot 13880 (Map 1055) of Land Court Application 1069;
5. Thence along same, on a curve to the left with a radius of 430.00 feet, the chord azimuth and distance being:  
185° 26' 30" 148.48 feet;
6. 175° 30' 84.32 feet along same;
7. 265° 30' 3,562.61 feet along the remainders of Lots 13880 and 13831 (Map 1055) and Lot 13884 (Map 1056) of Land Court Application 1069;
8. Thence along the remainder of Lot 13884 (Map 1056) of Land Court Application 1069, on a curve to the left with a radius of 1,409.00 feet, the chord azimuth and distance being:  
251° 50' 24" 665.50 feet;

9. Thence along the West side of Barbers Point NAS Access Road (Project No. D-AD-1(2)), on a curve to the left with a radius of 2,077.19 feet, the chord azimuth and distance being:  
323° 50' 02" 386.19 feet;
10. 318° 30' 1,205.19 feet along same to the point of beginning and containing an area of 151.009 acres.



November 12, 2004  
Honolulu, Hawaii

*Wilfred Y.K. Chin*  
\_\_\_\_\_  
Wilfred Y.K. Chin  
Licensed Professional Land Surveyor  
Certificate Number 3499  
License Expires 4/06

# EXHIBIT A-2

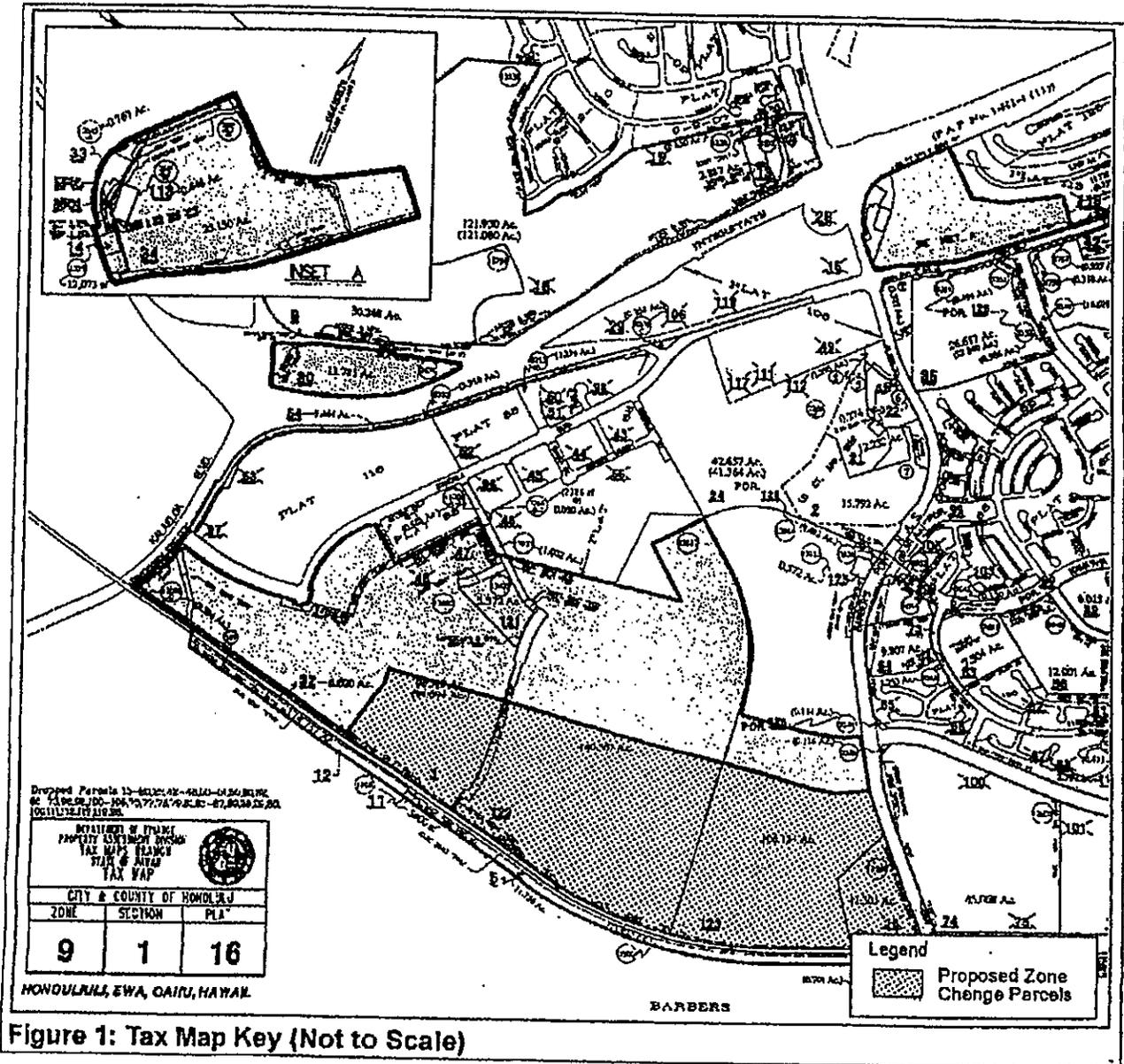


Figure 1: Tax Map Key (Not to Scale)

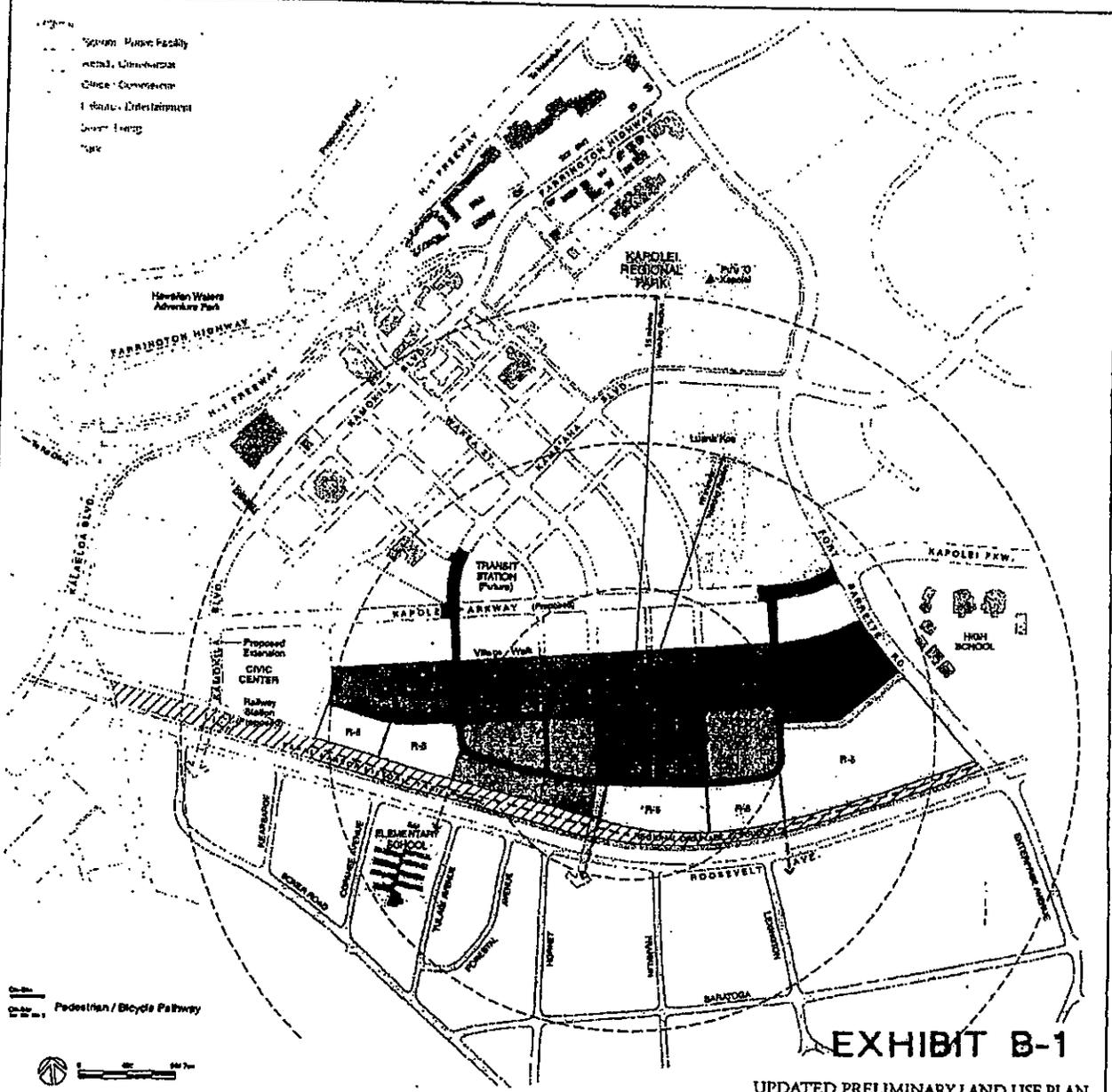
**EXHIBIT A-3**

All of those certain parcels of land situate at Honoulluli, City and County of Honolulu, Island of Oahu, State of Hawaii, more particularly described as follows:

<b>Lot</b>	<b>Map</b>	<b>Certificate of Title</b>	<b>Owner</b>
Lot 13880 (portion)	Map 1055	493,720	Trustees under the Will and of the Estate of James Campbell, Deceased
Lot 13883	Map 1055	493,720	Trustees under the Will and of the Estate of James Campbell, Deceased
Lot 15685 (portion)	Map 1208	493,720	Trustees under the Will and of the Estate of James Campbell, Deceased

End of Exhibit A-3

- Open Space Facility
- Retail, Commercial
- Office - Commercial
- Leisure - Entertainment
- Green Energy
- Park

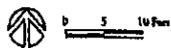
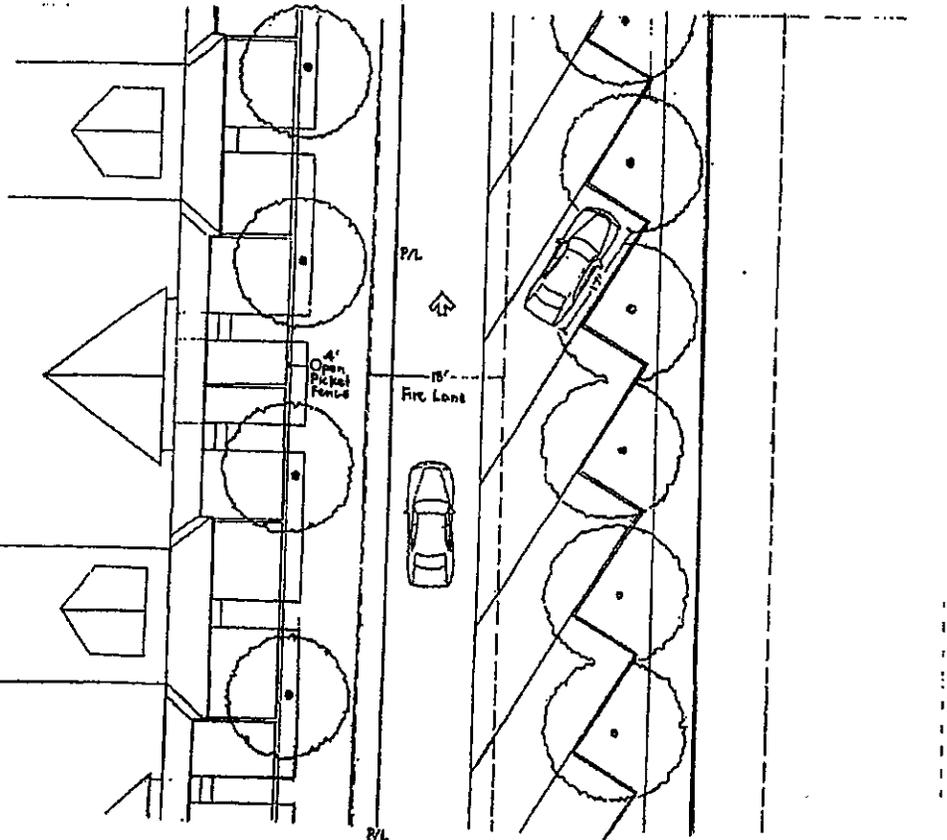
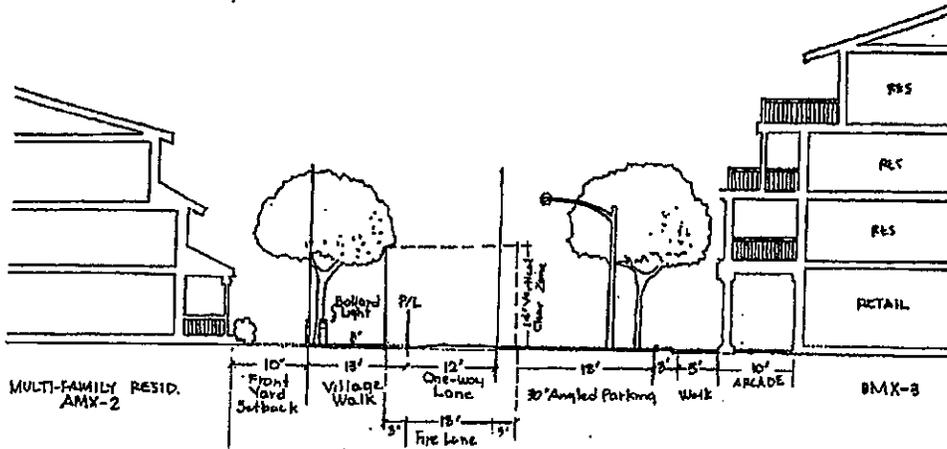


**EXHIBIT B-1**

UPDATED PRELIMINARY LAND USE PLAN  
**MEHANA at KAPOLEI**  
 D.R. HORTON - SCHULER DIVISION

\*Plan is conceptual. Building forms and landscape details are subject to change.

August 19, 2004  
 Helber Hastert & Fee, Planners  
 Honolulu, Hawaii

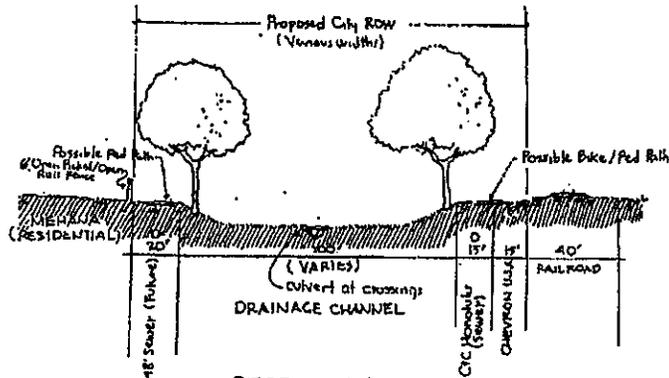


August 19, 2004  
 Helber Hastert & Fee, Planners  
 Honolulu, Hawaii

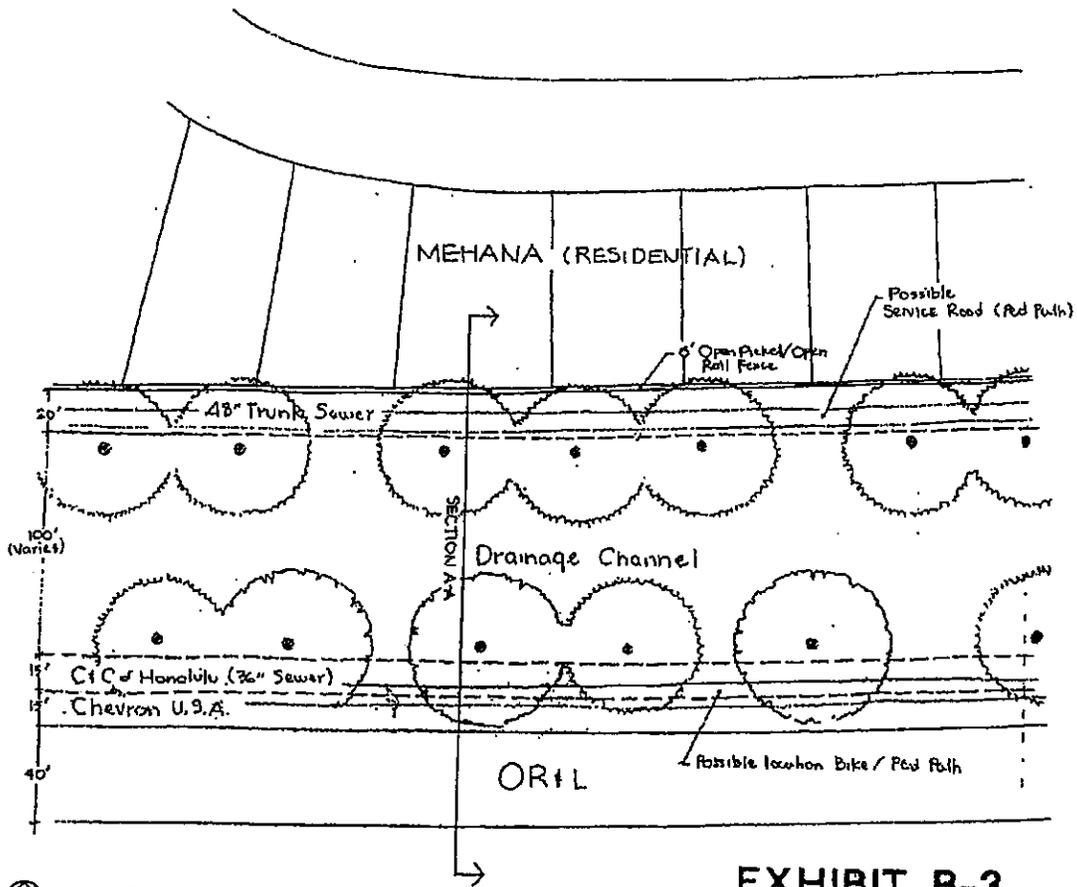
### EXHIBIT B-2

VILLAGE WALK CONCEPT PLAN A  
 MEHANA AT KAPOLEI  
 D.R. HORTON - SCHULER DIVISION

\*Plan is conceptual. Building forms and landscape details are subject to change.



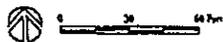
SECTION A-A



**EXHIBIT B-3**

DRAINAGE CORRIDOR CONCEPT PLAN  
**MEHANA AT KAPOLEI**  
 D.R. HORTON - SCHULER DIVISION

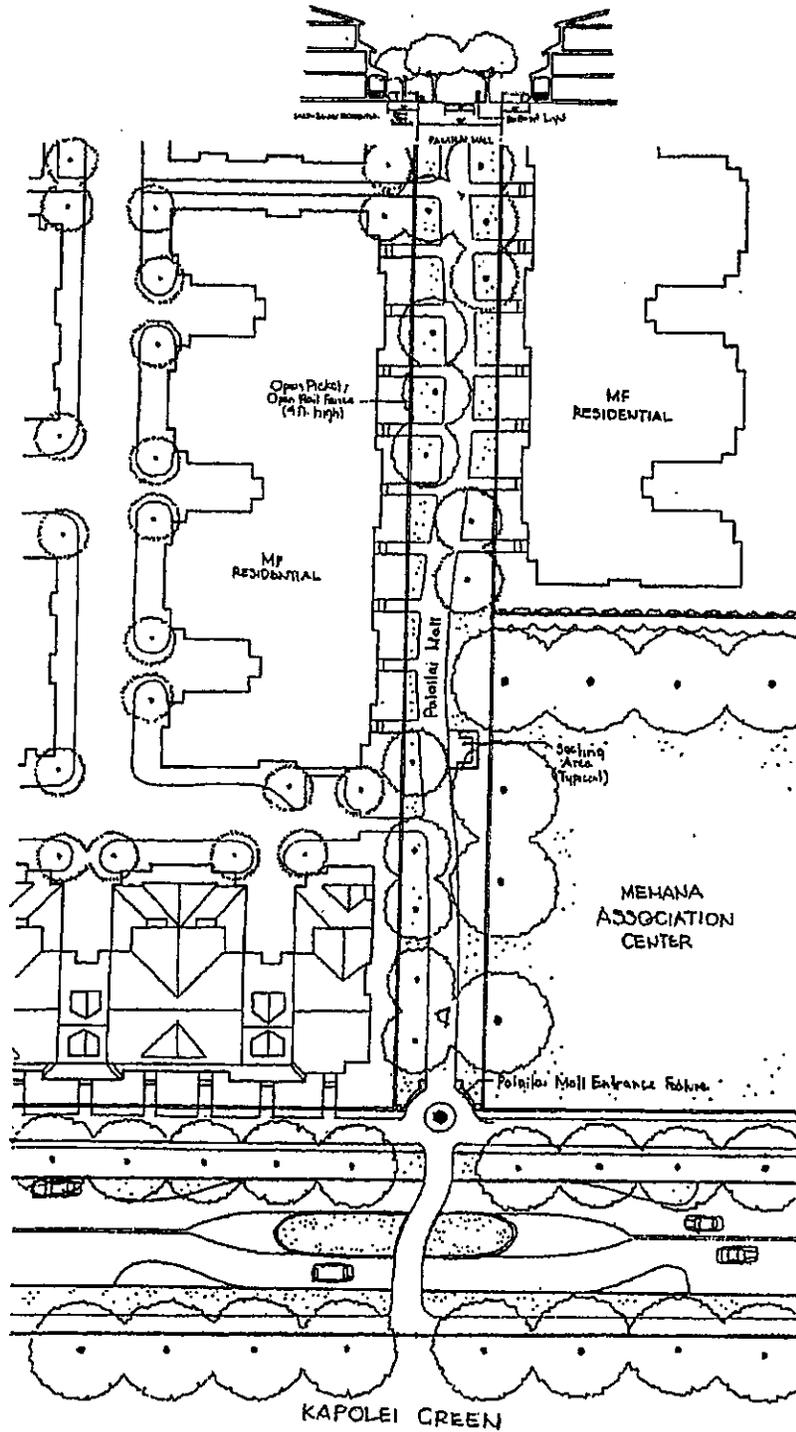
\*Plan is conceptual; Building forms and landscape details are subject to change



Revised August 27, 2004

August 15, 2004

**Helber Hartert & Fec, Planners**  
 Honolulu, Hawaii



August 19, 2004  
 Helber Hastert & Fee, Planners  
 Honolulu, Hawaii

### EXHIBIT B-4

PALAILAI MALL CONCEPT PLAN  
 MEHANA AT KAPOLEI  
 D.R. HORTON - SCHULER DIVISION

\*Plan is conceptual. Building forms and landscape details are subject to change.

**D·R·HORTON** RHI  
NYSE  
*America's Builder*  
**SCHULER DIVISION**

**MICHAEL T. JONES**  
PRESIDENT

August 26, 2004

Mr. Bill Balfour, Director  
Department of Parks and Recreation  
City and County of Honolulu  
Kapolei Hale  
1000 Uluohia Street #309  
Kapolei, Hawai'i 96707

Mehana at Kapolei  
Neighborhood Park Dedication Recommendation

Dear Mr. Balfour,

Thank you very much for your time and advice at our August 12, 2004 meeting, to discuss Mehana's proposed neighborhood park. It will play a vital role in establishing Mehana as a desirable place to live and we look forward to working with the City and County to create a first class park for the community.

I have enclosed a copy of the conceptual park plan we reviewed with you and your staff, for your records. Based on our representations at the meeting, you indicated that your department would recommend that the approximately 4.5-acre park area be accepted by the City and County for park dedication purposes. We request your acknowledgment of this recommendation be forwarded to the Department of Planning and Permitting relative to the pending Mehana Zone Change application (DPP File No. 2004/Z-5).

It is our intention to grade, grass and irrigate the 4.5 acre park site and dedicate the park to the City. The other improvements, such as the parking lot, restrooms, children's play structure and basketball/volleyball courts will be constructed by the City & County.

As discussed at the meeting, we are considering the possibility of constructing some or all of the park improvements—according to a mutually acceptable plan. It is our understanding that these improvements could be credited towards any outstanding or future on- or off-site park dedication requirements.

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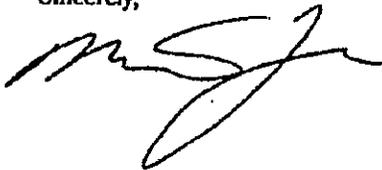
EXHIBIT C-1

Page 2

Mr. Bill Balfour  
August 26, 2004  
Page 2

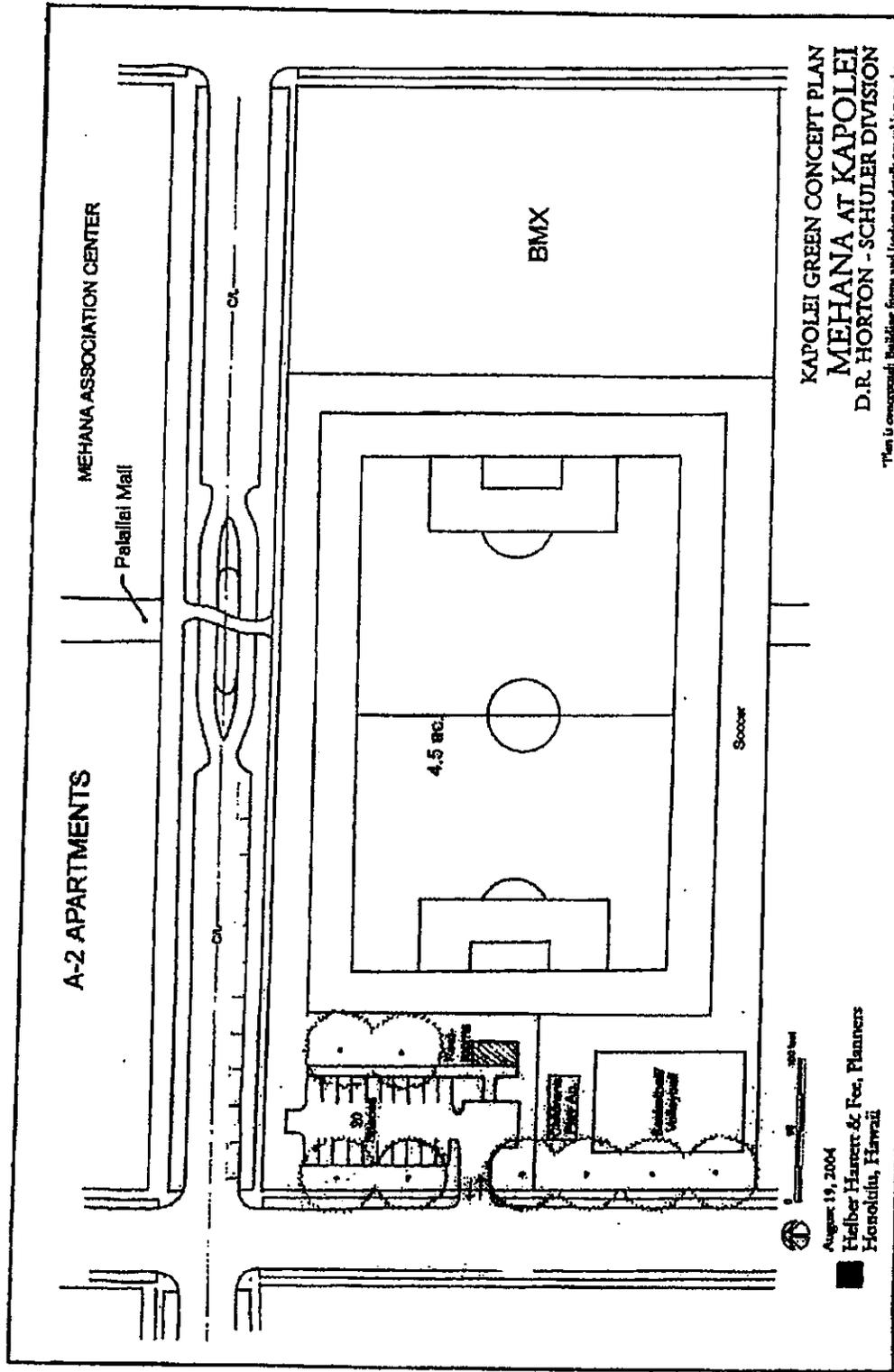
Please call me or Harvey Goth with any questions or concerns.

Sincerely,



Enclosure: Neighborhood Park Conceptual Plan (August 19, 2004)

cc: Tom Fee  
Keith Kurahashi  
Bob Bruhl  
Eric Crispin/Director of DPP



KAPOLEI GREEN CONCEPT PLAN  
 MEHANA AT KAPOLEI  
 D.R. HORTON - SCHULER DIVISION

*This is conceptual; building forms and landscape details are subject to change.*

EXHIBIT C-2

DEPARTMENT OF PARKS AND RECREATION  
CITY AND COUNTY OF HONOLULU

KAPOLE HALL, 1000 ULUKOHA STREET, STE. 300 • KAPOLE, HAWAII 96707  
PHONE: (808) 802-3331 • FAX: 802-3131 • INTERNET: WWW.DC.HONOLULU.HI

JEREMY HARRIS  
MAYOR



WILLIAM D. BALFOUR, JR.  
DIRECTOR

EDWARD T. "BOBBY" DIAZ  
DEPUTY DIRECTOR

September 13, 2004

Mr. Michael T. Jones, President  
DR Horton  
828 Fort Street Mall, 4th Floor  
Honolulu, Hawaii 96813

Dear Mr. Jones:

Thank you for your letter of August 26, 2004, confirming what was discussed at our August 12, 2004, meeting on the proposed Mehana Neighborhood Park.

By copy of this letter, we are recommending to the Department of Planning and Permitting, to accept the 4.5 acre park for park dedication purposes relative to the Mehana Zone Change application (DPP File No. 2004/Z-5).

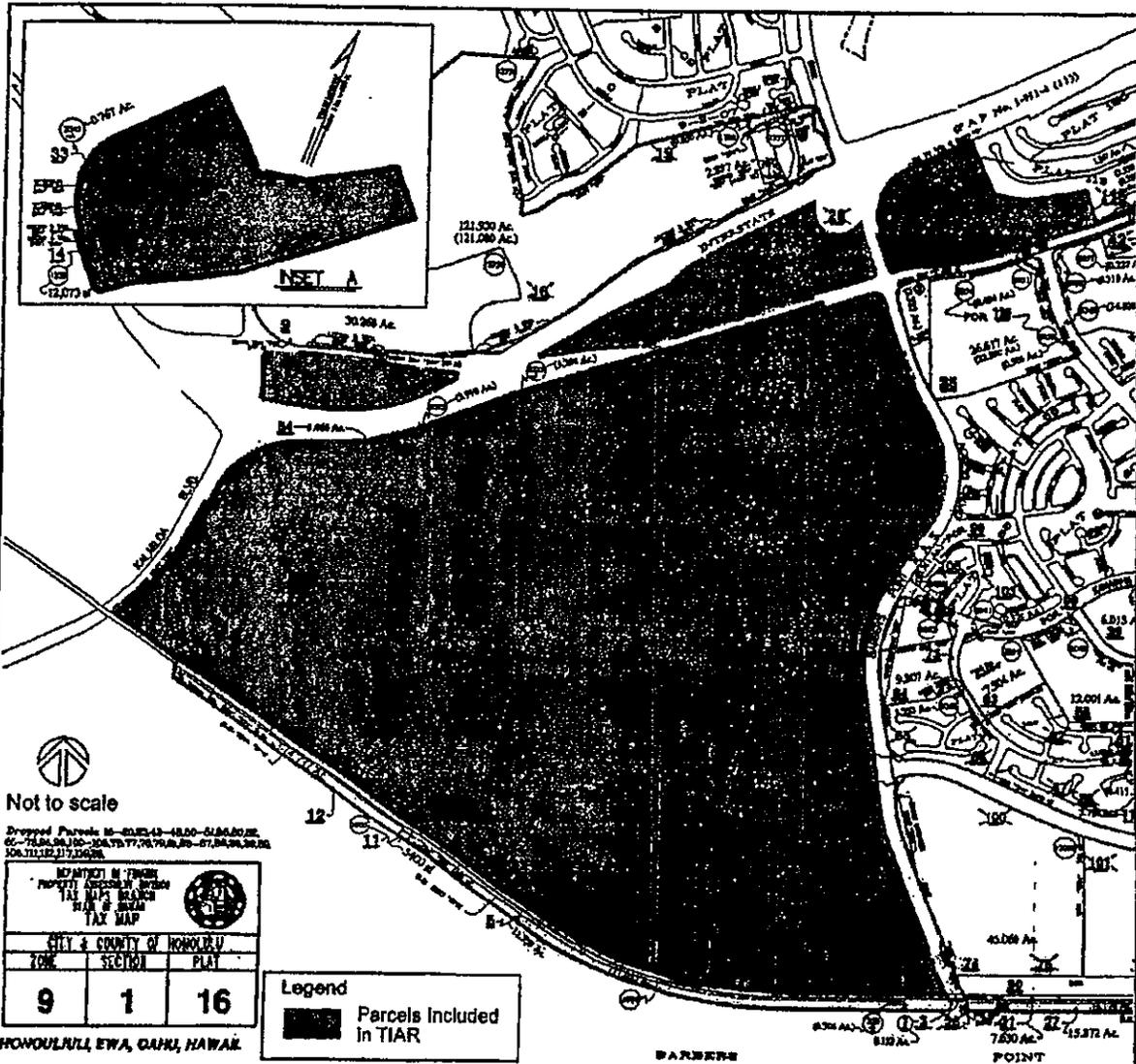
Should you need further assistance, please contact Mr. Dexter Liu, Leeward Oahu District Manager, at 675-6030.

Sincerely,

*W. D. Balfour, Jr.*  
WILLIAM D. BALFOUR, JR.  
Director

WDB:kt  
(74605)

cc: Department of Planning and Permitting



Not to scale

Dropped Parcels 16-80263-13-4800-0188802K  
 05-718,08,110-108,79,77,76,79,8,89-87,88,89,90,92  
 106,111,12,117,126,28

REPARTITION OF TOWN  
 PROPERTY ACQUISITION SYSTEM  
 TAX MAP BRANCH  
 PLAN & MAP  
 TAX MAP

CITY & COUNTY OF HONOLULU		
ZONE	SECTION	PLAT
9	1	16

HONOLULU, EWA, OAHU, HAWAII

**Legend**

 Parcels Included in TIAR

**Exhibit D: TIAR Area**

Kapolei Property Development, LLC

November 10, 2004  
 Helber Hestert & Fee, Planners, Inc.

**EXHIBIT W**  
(Solid Waste Management Plan Mehana at Kapolei)

## EXHIBIT W

### SOLID WASTE MANAGEMENT PLAN MEHANA AT KAPOLEI

(As developed in consultation with the State of Hawaii, Department of Health,  
Solid Waste Management Branch, December 2006)

Recycling of materials (construction and established development on going use) is the primary goal of the Mehana at Kapolei Solid Waste Management Plan. To that end the following recommendations are being provided to contractors, homeowners and AOA's for the project:

1. Gypsum and plaster are not subject to recycling since there are no current facilities to permitted to accept gypsum board. Should recycling facilities be available in the future, recycling is encouraged.
2. Treated wood wastes are not subject to recycling and should be disposed of at an approved Landfill. PVT is a currently approved landfill. Should recycling facilities be available in the future, recycling is encouraged.
3. Non-reusable glass shall be properly disposed. PVT is a currently approved disposable location.
4. Reuse of glass in a reusable form is encouraged. Currently (on Oahu) glass bottles are only accepted for recycling.
5. Non-ferrous metals including uncontaminated brass, copper or aluminum should be recycled. Current facilities recovering non-ferrous metals are: C. M. Recycling, LLC; Hans Metals; Okuda Metals; Reynolds Recycling and Island Recycling.
6. Paper products including white or colored paper, newsprint and cardboard should be recycled. Current facilities recycling paper products are Honolulu Recovery and Island Recycling.
7. Green waste products generated during construction and ongoing maintenance should be delivered to composting materials when feasible. Current facilities accommodating composting include Hawaiian Earth Products.
8. Provide opportunities for residents to recycle. This will be primarily accommodated by encouraging/endorsing property owners to participate with City and County recycling programs that become available. Association newsletters can be used to inform residents.

(Note: This Solid Waste Management Policy has been developed in consultation with the State of Hawaii Department of Health Solid Waste Management Branch based on December 27, 2006 correspondence. Materials subject to recycling and approved recyclers identified above are subject to change. This plan is not intended to be in conflict with any other solid waste management policies including those of the City and County of Honolulu with respect to construction and or City and County of Honolulu existing or future residential or commercial recycling plans)

**EXHIBIT X**  
(Awakea at Mehana Affordable Housing Information Circular)



## AWAKEA AT MEHANA AFFORDABLE HOUSING INFORMATION

Thank you for your interest in Awakea at Mehana. We at D.R. Horton-Schuler Homes, LLC ("D.R. Horton") are pleased to introduce one of the newest housing communities on Oahu containing affordable units. The designated affordable units have been constructed and marketed in cooperation with the City and County of Honolulu (the "City and County") and sales of affordable units in the community will be administered by the City's Department of Permitting and Planning ("DPP"). ***Sales of affordable units will be by lottery as described in this information circular.***

### GENERAL ELIGIBILITY REQUIREMENTS

1. Applicants must meet all of the eligibility requirements of Section 3-2 of DPP's Affordable Housing Rules adopted in February 2010 (the "Affordable Housing Rules"). A copy of this Section of the Rules is attached as Exhibit 1. The eligibility requirements are generally summarized below.
2. Applicants must not own any real estate suitable for residential use, prior to closing of a unit in Awakea at Mehana or for the year prior to the date of the Applicant's housing application.
3. Applicants must be at least 18 years old and a citizen of the U.S. or a resident alien living in the State of Hawaii with a bona-fide intent to reside in the unit purchased.
4. Designated affordable units in the community will be offered for sales to eligible purchasers earning up to 120% of the City and County of Honolulu's "Median Household Income".
5. Applicants must abide by the applicable Buy-back Restriction attached as Exhibit 2 to this information circular (four (4) years or eight (8) years) regarding sales of affordable units at Awakea as mandated in Unilateral Agreement and Declaration for Conditional Zoning, recorded as Document No. 3195643 (the "UA"), and the Affordable Housing Agreement applicable to the community. Renting, selling, leasing, offering to rent, sell, or lease, or changing title of an affordable housing unit are restricted under the City's affordable housing rules. The UA and the Affordable Housing Agreement applicable to the community give the City and County an option to purchase the affordable unit sold to an eligible purchaser if the eligible purchaser seeks to rent, lease or sell the designated affordable unit, among other items, during the buy-back restriction period. If circumstances require you take one of these types of actions you must first notify the City and County Department of Budget and Finance ("DBF") at 808-768-8652 and D.R. Horton in writing of your circumstances, and provide the City the option to purchase your unit as provided in the buy-back restriction. If the DBF does not wish to repurchase your unit, the City may require you to rent, lease, or sell the unit to individuals who qualify as affordable unit purchasers/renters under the City's affordable housing rules. D.R. Horton has the right to enforce your promise to reside in your unit for the restriction period and the right to enforce any condition imposed by the City in connection with any approved rental, lease or sale of your unit. This means you can be prevented (and that D.R. Horton can go to court to prevent you) from renting, leasing or selling your unit during the applicable restriction period. It also means that you may be able only to rent, lease or sell your unit to individuals who have first qualified as affordable unit purchasers/renters with the City.
6. The ***duration of the buy-back restriction period varies*** depending on the income qualification level of the affordable unit purchaser provided, however, sales of units may be limited to those eligible buyers described in subpart (ii). The restrictions on transfer, use and sale of the designated affordable unit is (i) ***eight (8) years*** for buyers earning up to eighty percent (80%) of the median household income, and (ii) ***four (4) years*** for buyers earning between eighty-one percent (81%) and one hundred twenty percent (120%) of the median household income. Applicants must be owner-occupants at all times during the applicable buy-back restriction period.

7. Applicants must have the ability to finance the purchase with their own resources, including cash requirements and qualifying for the mortgage loan.
8. Applicants must not have previously received assistance from a State or County agency to purchase an affordable unit, except in circumstances specifically permitted by the Director of DPP. Special application needs to be made for relief from this requirement.
9. The affordable units being offered include 2 bedroom, 2.5 bath units. The Affordable Housing Rules specify a minimum and maximum occupancy for 2 bedroom units of *2 to 5 persons*.
10. Applicant's Annual Gross Household Income must not exceed 80% or 120% of the City and County of Honolulu's Median Household Income, depending on the applicable buyer category. The maximum qualifying income based on family size is listed on Exhibit 3 attached hereto.

As defined in Section 1.2 of the Affordable Housing Rules: "Gross Household Income" and means generally the total annual income of the applicant or co-applicant/spouse and any other household member over 18 years of age not claimed as a dependent, from all sources before deductions. Among other items, Social Security and pension benefits, COLA, BAQ, AND VHA are considered income; AND "Household" means (1) a single person; (2) two or more persons regularly living together related by blood, marriage, adoption, or by operation of law; (3) a live-in aide, as recognized by the Director, who is essential to the care and well-being of a household member; or (4) no more than five unrelated persons who have lived together for at least a year, who execute an affidavit, and provide proof acceptable to the Director of DPP. Applicants claiming family size by reason of pregnancy must present a doctor's certificate at the time of the interview, which may be accepted by DPP.

11. Applicants are advised that the making of any false statements knowingly, in connection with this application is a crime punishable by a fine of up to \$2,000.00 or imprisonment for up to one (1) year or both as applicable under the provisions of the Hawaii Penal Code, Part V, Section 710-1063.
12. During the applicable buy-back restriction period, should buyer intend to rent, lease, sell or change title to their unit, they must first give notice to the City and County, Department of Budget and Fiscal Services ("BFS"), and BFS has first option to purchase the unit or require buyer to sell the unit to a "qualified resident" as defined in §201H-112, HRS, at the price and upon terms that preserve the intent of §§201H-127, 129, and 130, HRS, and who is in the same income category as the original buyer at the time of the original sale, approved by BFS.

## **REQUIRED DOCUMENTS**

The following buyer information forms are required by D.R. Horton and DPP and must be filled out completely by all parties before they may participate in the lottery. Applicants submitting incomplete forms will be disqualified. **These forms must be mailed or delivered in person to D.R. Horton's sales office at 478 Kunehi Street Unit 101, Honolulu, Hawaii 96707, Attention BJ Nagata or Lorna Lowe; Telephone (808) 693-8004. The forms must be received by D.R. Horton at least 7 days prior to the scheduled date of the lottery or an applicant will not be permitted to participate in the lottery.**

1. Owner-Occupant Affidavit and Affidavit as to Family Members  
Read and complete the necessary information. This form must be signed by all parties in front of a Notary Public. Do not sign this form without a Notary Public present.
2. Housing Application Form  
This four page form must be completely filled out. *It must be returned together with all the specified personal data required on the basis of answers to the application.* All information will be kept confidential and will be submitted to the DPP and a Lender for their review and approval.

3. Tax Returns or Other Income Verification forms approved by DPP  
Submit two (2) years of signed FEDERAL tax returns with all schedules attached to your application. Income eligibility can be based on tax return information, the household's current payroll information or other DPP approved income verification forms. TAX RETURNS MUST BE SIGNED BY ALL PARTIES.
4. Proof of Residency  
Provide valid proof that you are domiciled in the State of Hawaii such as a Drivers License, State ID, or other approved documentation.
5. Pre-Qualification Letter  
A Pre-Qualification Letter from DHI Mortgage or other approved lender is required. You are not required to use DHI Mortgage and may use a lender of your choice.
6. Lottery Registration Form.  
This Lottery Registration Form is available from the sales office and must be completed to participate in the lottery.

### SALES PROCESS

1. All designated affordable units will be offered initially by lottery for sale to pre-qualified applicants.
2. Applicants wanting to participate in the lottery must complete and submit to D.R. Horton ALL OF THE REQUIRED DOCUMENTS itemized above at least 7 days prior to the scheduled date of the lottery. If an applicant does not fully complete the forms and return all of them, together with specified personal data required on the basis of answers to the Housing Application Form, they may not participate in the lottery. In other words, if you do not return these forms to D.R. Horton within the time noted or return them with blanks, you may not participate in the lottery. D.R. Horton, in consultation with an applicant's lender, will make a preliminary determination of an applicant's qualification to participate in the lottery. If D.R. Horton determines an applicant is not qualified to participate in the lottery, the applicant will not be permitted to participate in the lottery provided, however, D.R. Horton's determination that an applicant is qualified is not binding on DPP. The applicant's application package will, however, be submitted to DPP for review and action.
3. If selected at the Lottery, an applicant may select an affordable unit to buy, sign a reservation to purchase that unit, and make a reservation deposit of \$500 on the unit. D.R. Horton will assist applicants in the selection of their units. Applicant's deposit will be refundable pending DPP certification of the applicant's qualification to purchase an affordable unit.
4. All of applicant's completed forms will be submitted to DPP for its review and certification of an applicant's eligibility and qualification to purchase an affordable unit. The completed forms will also be reviewed by D.R. Horton and the applicant's lender to determine eligibility. If DPP fails to certify an applicant's eligibility and qualification within a reasonable time or D.R. Horton or the Lender determine the applicant is not eligible or qualified, in their sole discretion, the applicant's reservation will be cancelled and their deposit refunded. In that case, the affordable unit selected by applicant will be offered to the next lottery participant who has not been able to reserve an affordable unit or be offered on a first-come first-served basis to the next applicant or the next applicant who has a registered interest if an interest list is utilized.
5. Once DPP has certified an applicant's qualification and eligibility to purchase an affordable unit, applicant will be given 5 days to enter into a sales contract provided applicant's loan pre-qualification remains effective. In that regard, it is each applicant's responsibility to stay in touch with their lender to assure any Loan Pre-Qualification Letter remains valid. Copies of the sales contract entered into by an applicant will be provided to DPP. If the applicant's Loan Pre-Qualification Letter expires or applicant does not enter a sales contract within the time permitted and make the required deposit under the sales contract, the applicant's reservation may be cancelled and the selected unit will be offered to the next applicant as stated above.

### **IMPORTANT NOTES**

- 1. Before submitting a form, every blank must be filled in. If blanks do not apply to you, write the word "none" in the blank. Applicants submitting incomplete forms will be disqualified.**
- 2. At all stages of the application process buyer is responsible for notifying D.R. Horton of any changes in mailing addresses and telephone numbers.**

If you have any questions, please call, D.R. Horton's sales office at **(808) 693-8004** (Oahu). If there are any questions that D.R. Horton is not able to answer, please call DPP's Development Plans and Zoning Change Branch at (808) 768-8054.

**EXHIBIT 1**  
**Chapter 3 Applicant Qualification**  
**Affordable Housing Rules**

**EXHIBIT 2**  
**FOUR (4) YEAR BUY-BACK RESTRICTION**

Pursuant to the City and County of Honolulu's restriction on transfer, sale/buyback, and use:

§5-1 Subject to Restrictions: Encumbrances. Each affordable housing unit will be subject to and encumbered by the restrictions on transfer, use and sale of affordable housing units stated in §§201H-47, 49, and 50, HRS, except as those restrictions are modified in §5-2, §5-3, and §5-4. The restrictions on transfer, sale/buyback, and use shall be fully stated in their entirety in all instruments conveying or renting any interest in an affordable housing unit.

§5-2 Principal Residence. Affordable housing units purchased under the Program shall be occupied as the purchaser's principal residence for the duration of the transfer restriction (buyback) period. The City, developer, or designated affordable housing provider shall have the right during the above buy-back restriction period to verify owner occupancy of the principal residence.

The City, developer, or designated affordable housing provider shall reserve the right to seek financial recourse from the purchaser if this provision is violated. Terms of the financial recourse shall be fully stated in their entirety in all instruments conveying or renting any interest in an affordable housing unit. Financial recourse may include the appreciated value of the affordable housing unit. Funds collected from any financial recourse action shall be credited to the entity that provided the affordable housing subsidy or to the City to fulfill an outstanding affordable housing unit obligation. The City reserves the right to disqualify units which are non-compliant with the restriction period requirement.

§5-3 Term of Restrictions. (a) If the purchaser wishes to transfer title to the real property, the BFS shall have the option to (1) either purchase the real property, or (2) require the purchaser to sell the real property to a "qualified resident" as defined in §201H-112, HRS, at the price and upon terms that preserve the intent of §§201H-127, 129, and 130, HRS, and who is in the same income category as the original purchaser at the time of the original sale, approved by BFS. The restrictions on transfer, use and sale of the affordable housing units shall be in effect for four (4) years for qualified buyers.

§5-4 New Restriction Period. If an affordable housing unit is repurchased by BFS and resold to a new owner during the restriction period, a new restriction period equal to the original restriction period may be imposed upon the new owner.

§5-5 Waiver. If an owner wishes to sell an affordable housing unit during the buyback restriction period, BFS may waive the transfer restriction for that specific transaction. A waiver by BFS will be determined on each separate request based on the following criteria:

- (1) The purchaser wishes to transfer title to the real property by devise or through the laws of descent to a household member who would otherwise qualify under these rules.
- (2) The sale or transfer of the real property would be at a price and upon terms that preserve the intent of this section without the necessity of BFS repurchasing the real property; provided that, in this case, the purchaser shall be required to sell the unit or lot and sell or assign the property to a person who is a "qualified resident" as defined in section 201H-112, HRS, and who is in the same income category as the original purchaser at the time of the original sale, approved by BFS.

§5-6 Consent. Only mortgages and liens consented to in advance by the City and created for the purpose of financing, refinancing, purchase of the fee, repayment of subsidy, maintenance and repair of the affordable housing unit or essential improvements, or other household expenditures of an emergency or life-threatening nature may be placed on the property.

**EXHIBIT 2**  
**EIGHT (8) YEAR BUY-BACK RESTRICTION**

Pursuant to the City and County of Honolulu's restriction on transfer, sale/buyback, and use:

§5-1 Subject to Restrictions: Encumbrances. Each affordable housing unit will be subject to and encumbered by the restrictions on transfer, use and sale of affordable housing units stated in §§201H-47, 49, and 50, HRS, except as those restrictions are modified in §5-2, §5-3, and §5-4. The restrictions on transfer, sale/buyback, and use shall be fully stated in their entirety in all instruments conveying or renting any interest in an affordable housing unit.

§5-2 Principal Residence. Affordable housing units purchased under the Program shall be occupied as the purchaser's principal residence for the duration of the transfer restriction (buyback) period. The City, developer, or designated affordable housing provider shall have the right during the above buy-back restriction period to verify owner occupancy of the principal residence.

The City, developer, or designated affordable housing provider shall reserve the right to seek financial recourse from the purchaser if this provision is violated. Terms of the financial recourse shall be fully stated in their entirety in all instruments conveying or renting any interest in an affordable housing unit. Financial recourse may include the appreciated value of the affordable housing unit. Funds collected from any financial recourse action shall be credited to the entity that provided the affordable housing subsidy or to the City to fulfill an outstanding affordable housing unit obligation. The City reserves the right to disqualify units which are non-compliant with the restriction period requirement.

§5-3 Term of Restrictions. (a) If the purchaser wishes to transfer title to the real property, the BFS shall have the option to (1) either purchase the real property, or (2) require the purchaser to sell the real property to a "qualified resident" as defined in §201H-112, HRS, at the price and upon terms that preserve the intent of §§201H-127, 129, and 130, HRS, and who is in the same income category as the original purchaser at the time of the original sale, approved by BFS. The restrictions on transfer, use and sale of the affordable housing units shall be in effect for eight (8) years for qualified buyers.

§5-4 New Restriction Period. If an affordable housing unit is repurchased by BFS and resold to a new owner during the restriction period, a new restriction period equal to the original restriction period may be imposed upon the new owner.

§5-5 Waiver. If an owner wishes to sell an affordable housing unit during the buyback restriction period, BFS may waive the transfer restriction for that specific transaction. A waiver by BFS will be determined on each separate request based on the following criteria:

- (1) The purchaser wishes to transfer title to the real property by devise or through the laws of descent to a household member who would otherwise qualify under these rules.
- (2) The sale or transfer of the real property would be at a price and upon terms that preserve the intent of this section without the necessity of BFS repurchasing the real property; provided that, in this case, the purchaser shall be required to sell the unit or lot and sell or assign the property to a person who is a "qualified resident" as defined in section 201H-112, HRS, and who is in the same income category as the original purchaser at the time of the original sale, approved by BFS.

§5-6 Consent. Only mortgages and liens consented to in advance by the City and created for the purpose of financing, refinancing, purchase of the fee, repayment of subsidy, maintenance and repair of the affordable housing unit or essential improvements, or other household expenditures of an emergency or life-threatening nature may be placed on the property.

**EXHIBIT 3**  
**Affordable Housing Income Limit Table**  
**80% and 120% of Median Household Income**

Maximum qualifying income (80% of the City and County of Honolulu's Median Household Income) based on family size as of January 2013:

Family Size	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
Income Range	\$54,850	\$62,650 (2 bdrm)	\$70,500 (2-3 bdrm)	\$78,300 (2-3 bdrm)	\$84,600 (2-3 bdrm)

Maximum qualifying income (120% of the City and County of Honolulu's Median Household Income) based on family size as of January 2013:

Family Size	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
Income Range	\$72,492	\$82,848 (2 bdrm)	\$93,204 (2-3 bdrm)	\$103,560 (2-3 bdrm)	\$111,845 (2-3 bdrm)